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Reverdy Johnson 1.30 pm

Thursday —— 11.20 Am

Green in reply 12.20

SUPREME COURT OF THE UNITED STATES.

No. ~~108~~. 118.

1365

THE UNITED STATES, APPELLANTS,

Supol

vs.

M. G. VALLEJO AND ASSIGNS.

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

G. S. Gideon, Printer, 511 Ninth street, Washington, D. C.

affirm in some [illegible]

March 1 - considered - & further [illegible] in Chf Just is present -

March 8th reversed

Wayne. Clifford. Nelson - Catron ~~Chf Just~~

Dissg - Grier & Wayne J [illegible]

SUPREME COURT OF THE UNITED STATES.

No. 198.

THE UNITED STATES, APPELLANTS,

vs.

M. G. VALLEJO AND ASSIGNS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this seventeenth day of July, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of M. G. Vallejo and assigns, for the place named "Soscol," was presented, and ordered to be filed and docketed with No. 291, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *Feb'y* 1, 1853.

In case No. 291, M. G. Vallejo and assigns, for the place named "Soscol," the depositions of Manuel Vaca and Felipe Pena, witnesses on behalf of the claimants, taken before Commissioner Harry J. Thornton, were filed.

(Vide pages 12 and 13 of this Transcript.)

SAN FRANCISCO, *Feb'y* 16, 1853.

In the same case, the deposition of Salvador Vallejo, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *Feb'y* 17, 1853.

In the same case, the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. I. T., No. 1, annexed thereto, was filed.

(Vide page 15 of this Transcript.)

SAN FRANCISCO, *Feb'y* 18, 1853.

In the same case, the deposition of Juan B. R. Cooper, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 16 of this Transcript.)

SAN FRANCISCO, *Sept.* 28, 1853.

Case No. 291 was ordered to the foot of the docket.

San Francisco, *Nov.* 14, 1853.

In the same case, the deposition of James M. Hudspeth, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 6 of this Transcript.)

San Francisco, *Nov.* 29, 1853.

In the same case, the depositions of Salvador Vallejo and Cayetano Juarez, witnesses in behalf of the claimant, taken before Commissioner Alpheus Felch, were filed.

(Vide page 14 of this Transcript.)

San Francisco, *Sept.* 26, 1854.

Case No. 291 was ordered to be placed at the foot of the 2d class cases on the trial docket.

San Francisco, *Oct.* 26, 1854.

In the same case, the deposition of J. D. Marks, a witness on behalf of the claimants, taken before Commissioner Alpheus Felch, was filed.

(Vide page 17 of this Transcript.)

San Francisco, *Oct.* 30, 1854.

In the same case, the deposition of Hans Patton, a witness in behalf of the United States, taken before Commissioner Peter Lott, was filed.

(Vide page 21 of this Transcript.)

San Francisco, *Nov.* 7, 1854.

Case No. 291 was submitted on briefs, and taken under advisement by the board.

In the same case, the United States law agent filed certified copies of the following papers, as evidence in behalf of the United States, to wit:

1. Deposition of Salvador Vallejo.

   (Vide page 33 of this Transcript.)

2. Deposition of Jasper O'Farrell.

   (Vide page 38 of this Transcript.)

3. Deposition of Jose de la Rosa.

   (Vide page 24 of this Transcript.)

4. Deposition of James M. Hudspeth.

   (Vide page 26 of this Transcript.)

5. Deposition of Juan B. R. Cooper.

   (Vide page 30 of this Transcript.)

6. Deposition of George C. Yount.

(Vide page 31 of this Transcript.)

7. Affidavit of M. G. Vallejo.

(Vide page 45 of this Transcript.)

All taken in case No. 250, Mariano G. Vallejo, for the place named "Petaluma."

San Francisco, *May* 22, 1855.

In the same case, Commissioner S. B. Farwell delivered the opinion of the board confirming the claim.

(Vide page 83 of this Transcript.)

And the following order was made, to wit:

(Vide page 86 of this Transcript.)

Petition.

To the Honorable Commissioners to settle private land claims in California.

The petitioner, Mariano Guadalupe Vallejo, for himself and his assigns, respectfully show:

That in the early part of the year 1843 he applied to the governor of California for the tract of land called "Soscol," in payment of moneys due him from the government of Mexico, whereupon the said governor, Manuel Micheltorena, granted to the petitioner the aforesaid tract of land as a colonist, with certain conditions subsequent, which grant was dated the 16th day of March, A. D. 1843.

That the petitioner then purchased of the departmental government of California, for the sum of five thousand dollars, the aforesaid tract of land called Soscol, receiving for it a deed in fee absolute, dated the 19th day of June, A. D. 1844.

That on the 26th day of September, A. D. 1845, the aforesaid grant and sale were duly approved by the departmental assembly of California, all of which is fully shown by the original papers, copies of which are submitted herewith, marked A, with a translation marked B; and the petitioner also submits herewith a map of said tract of Soscol, and the boundaries ascertained in said title papers, marked C.

The petitioner further shows, that the said tract of land has not been surveyed by the surveyor general of the United States, but that its boundaries are fully described in the title papers, and are well known.

That he has been for some ten years, and now is in the quiet, lawful, and undisputed possession of said tract of land, and with those holding under him has made improvements thereon to the amount of many millions of dollars. That he knows of no conflicting claim.

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, and upon such other and further proofs as he may be advised are necessary.

Wherefore, he prays the commissioners to confirm to him and to his assigns the said tract of land.

By his attorneys,

HALLECK, PEACHY & BILLINGS.

Filed in office July 17, 1852.

GEO. FISHER, *Sec'y.*

Recorded Record of Petitions, vol. 1, pp. 185 and 186.

GEO. FISHER, *Sec'y.*

Deposition of J. M. Hudspeth.

OFFICE OF THE BOARD OF COMM'RS, &c.

This day, before Commissioner Alpheus Felch, came James M. Hudspeth, a witness in behalf of claimants, M. G. Vallejo and assigns, No. 291, who, after being duly sworn, deposed as follows:

Questions by Mr. Peachy, Attorney for Claimants.

Question 1. What are your name, age, and place of residence?

Answer 1. My name is James M. Hudspeth; my age is forty years, and I reside in Sonoma county, California.

Question 2. How long have you known the Suscol rancho?

Answer 2. Since September, 1844.

Question 3. In what county is it?

Answer 3. Solano.

Question 4. Are you acquainted with the land, Tulucay and Suisun?

Answer 4. I am.

Question 5. Do you know the boundaries of the Suscol rancho, claimed by M. G. Vallejo? If yea, describe them as you have always understood them to be, and as they are generally known.

Answer 5. I know those boundaries. The rancho is bounded on the west by Napa creek, on the south by the straits of Carquines, on the east by the Suisun bay and the Suisun creek, for a part of its length, and the foot hills forming the western side of the Suisun valley, and on the north by a range of hills. The lands of Tulucay form the northwest boundary, and are separated from the Suscol rancho by a branch of the Napa river, called the Suscol creek. This creek thoughout its whole length forms a boundary of the Suscol rancho. From the bend of that creek, in a northerly direction, the boundary is a ridge, which is the natural divide between the waters of the Napa river and the Suisun creek and bay. This ridge extends up to some high peaks; there are three of them close together, and are generally known and noted land marks, having names which I do not now recollect. From these peaks the boundary of the Suscol is along a ridge in about a southeast direction, running down to the Suisun creek. The Suisun lands form the boundary on the north and east part. I made a survey of the Suscol rancho in 1847, and run the lines as above described.

Question 6. Where is the Isla de la Yegua, commonly known as Mare Island?

Answer 6. It is at the mouth of Napa river, just at the entrance of the Carquines straits. I suppose Mare Island is about two or two and half miles.

JAMES M. HUDSPETH.

Questions by Mr. Greenhow, Associate Law Agent.

Question 1. From what source did you derive your knowledge of the boundaries described by you?

Answer 1. When I made the survey I was in the employment of Mr. O'Farrell, and he furnished me with a description of the boundaries; all my knowledge of the boundaries is derived from the description received from Mr. O'Farrell.

Questions by Mr. Peachy.

Question 1. Did you obtain your knowledge of the natural objects described by you from Mr. O'Farrell's description of them, or from your own knowledge of the country?

Answer. I know of my own knowledge. I only know from him the natural objects which I was to follow in the survey. The objects themselves I know of my own knowledge.

Subscribed and sworn to before me, this 12th day of November, A. D. 1853.

ALPHEUS FELCH, *Commissioner.*

Filed in office November 14, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Evidence B., vol. 3, page 403.

GEO. FISHER, *Sec'y.*

Deposition of S. Vallejo.

OFFICE OF THE BOARD OF UNITED STATES LAND COMMISSIONERS,
SAN FRANCISCO, *Nov.* 29, 1853.

This day, before Commissioner Alpheus Felch, came Salvador Vallejo, a witness on behalf of the claimants, M. G. Vallejo and assigns, petition No. 291, and being duly sworn, his evidence being in Spanish, was interpreted by the secretary, as follows:

Questions by Mr. Peachy, Attorney for Claimants.

Question 1. What are your name, age, and place of residence?

Answer 1. My name is Salvador Vallejo; my age is forty-two years; and reside in Napa county, California.

Question 2. Are you acquainted with the boundaries of the Suscol rancho? If yea, state them.

Answer 2. I am; it is bounded on the north side by the rancho of Tulucay, belonging to Cayetano Juarez, from which it is divided by a creek called Suscol; on the north side it is bounded by the upper road leading from the rancho Tulucay to Suisun; on the east it is bounded by the rancho Suisun, from which it is divided by a range of small hills; on the west it is bounded by the river Napa, and on the south by the straits of Carquines. The bay of Suisun forms a part of the boundary on the east.

Question 3. Are these boundaries well known, and for how long a time have you known the land called Suscol by such boundaries?

Answer 3. They are well known, and I have known said rancho with the boundaries ever since 1833.

Question 4. Please describe the route of the upper road leading from Tulucay to Suisun, forming the boundary above mentioned.

Answer 4. The road runs over broken, rocky land; it is not a wagon road, but such as is used for riding and for pack mules; it has one large bend in it, but there are not many meanders; it runs on the north side of the peaks, which are natural objects well known; the road is from two and a half to three leagues between the western limits of Tulucay, and the place where it enters the Suisun, including its meanderings. I suppose the distance is about two leagues in a direct line; the road crosses the western line of the rancho Tulucay at the portezuelo, which I think is nearer to the southern boundary of Tulucay than to the northern. It enters the rancho of Suisun, in the valley of Suisun. This road forms the boundary line of Suscol from the boundary line Tulucay to the boundary line of Suisun. It runs north of the Green valley or Canada Verde.

Question 5. Would a line drawn from the bend of the Suscol arroyo to the most prominent of the peaks of which you have spoken, and thence to the most northerly point of the Suisun hills, be within the limits of the Suscol rancho.

Answer 5. It would; I gave juridical possession of Tulucay, and I run the boundary lines of that rancho; I also gave juridical possession of Suisun.

Question 6. Does the estero of Suisun form a part of the boundary of the rancho Suscol?

Answer 6. From the embarcadero to Benicia the margin of the estero, and from the bay of Suisun, forms the boundary of Suscol on the eastern side.

Question 7. What is the boundary line between Suscol and Suisun, from the embarcadero of Suisun to the southernmost point of the Suisun hills?

Answer 7. It is a line which I have run from the small hill at the embarcadero to the point of a hill across the valley of Suisun

The embarcadero is at a small hill, which is divided from the other hills by a small valley. I run the line last mentioned when I gave the juridical possession of Suisun.

Question 8. What is the western boundary between Suscol and Tulucay?

Answer 8. It is the line from the head of the arroyo Suscol to the arroyo Sarco or Corte Madera.

SALVADOR VALLEJO.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no question to the witness.

Subscribed and sworn to before me, this 29th day of November, A. D. 1853.

ALPHEUS FELCH, *Commissioner.*

Filed in office Nov. 29, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 3, page 462.

GEO. FISHER, *Sec'y.*

Deposition of C. Juarez.

OFFICE OF THE BOARD OF U. S. LAND COMMISSIONERS,
SAN FRANCISCO, *Nov.* 29, 1853.

This day, before Commissioner Alpheus Felch, came Cayetano Juarez, a witness in behalf of the claimants, M. G. Vallejo and assigns, petition 291, and, being duly sworn, deposed as follows, his evidence being in Spanish, was interpreted by the secretary.

Questions by Mr. Peachy, Attorney for the Claimants.

Question 1. What is your name, age, and place of residence?

Answer 1. My name is Cayetano Juarez; my age is 43 years, and I reside at Napa, in Cal'a.

Question 2. Are you acquainted with the Suscol rancho claimed in this case? If yea, state what you know of the settlement and occupation of it by the claimants.

Answer 2. I know the rancho, and have known it during the last twenty years; ever since the year 1836 I have known it to be in the possession and occupation of M. G. Vallejo, who has occupied it with cattle and horses. He has had ten or twelve thousand head of cattle, and from eight hundred to a thousand horses. He cultivated a considerable portion of it, but I cannot tell how much. He sowed forty or fifty quintals of grain. I live on the rancho of Tulucay, which adjoins the rancho of Suscol, where I have lived twenty years. Tulucay was originally granted to me, and I own it yet.

Question 3. Are you acquainted with the boundaries of the Suscol rancho?

Answer 3. I am. The arroyo Suscol divides my rancho from

Suscol rancho. The boundaries commence at the mouth of the arroyo Suscol, and run up the arroyo to its head; thence by the hills to the peaks; thence by the boundary line to the rancho of Suisun; thence to the embarcadero of Suisun at the estero of Suisun; thence all along the margin of said estero and the bay of Suisun by Benicia to the mouth of the arroyo Suscol. From the embarcadero to Benicia the line is all along the water, and the water is the line also from Benicia to the mouth of the Suscol creek.

CAYETANO JUAREZ.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no interrogatories to the witness.

Subscribed and sworn to before me, this 29th day of November, 1853.

ALPHEUS FELCH, *Commissioner.*

Filed in office November 29, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 3, page 464.

GEO. FISHER, *Sec'y.*

Deposition of J. Felipe Pena.

SAN FRANCISCO, *Feb'y* 15, 1853.

On this day, before Commissioner Harry J. Thornton, came Juan Felipe Pena, a witness on the part of the claimants, M. G. Vallejo and assigns, No. 291, and was duly sworn, his evidence being interpreted by the secretary.

Questions by Claimants' Counsel.

Question 1. What is your name, age, and place of residence?

Answer. My name is Juan Felipe Pena; my age is over 40 years; I reside on the Laguna rancho, the other side of Suisun. I have lived 12 years in California.

Question 2. Do you know the rancho of Suscol? And if so, when and by whom was it occupied.

Answer. I have known this rancho for about 12 years, during the whole of which time it has been occupied by the claimant, Vallejo, who had a house built upon it, cattle amounting to the number of four or five thousand, many horses, and some cultivation.

Qustion 3. If you know the boundaries of this rancho, please state them.

Answer. I do know its boundaries; they are the estero of Napa, the rivulet near the house, the estero of the lands of Suisun, and the straits of Carquines.

JUAN FELIPE ⋊ PENA.

United States law agent present.

Sworn to, and his mark made, before me, this 15th of February, 1853.

HARRY J. THORNTON,
Commissioner.

Filed in office Feb'y 15, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 2, p. 573.

GEO. FISHER, *Sec'y.*

Deposition of M. Vaca.

SAN FRANCISCO, *Feb'y 15th*, 1853.

On this day, before Commissioner Harry J. Thornton, came Manuel Vaca, a witness in behalf of the claimants, M. G. Vallejo and assigns, petition No. 291, and was duly sworn, his evidence being interpreted by the secretary.

Questions by Claimants' Counsel.

Question 1. What is your name, age, and place of residence?

Answer. My name is Manuel Vaca; my age sixty-seven years; my residence is in Solano co.

Question 2. Do you know the rancho of Suscol? And if so, when, by whom, and in what manner was it occupied.

Answer. I am acquainted with the rancho. In the year 1837, when I first knew it, it was occupied by General M. G. Vallejo, who had a house on it, upwards of three thousand cattle, and many horses; some little cultivation was had upon it by the said Vallejo, who has occupied it down to this time.

Question 3. Do you know the boundaries of this rancho? And if so, state them.

Answer. One of the boundaries is the estero of Napa; another a rivulet coming down from the mountain, separating the said rancho from the rancho Tulucay; another is a high ridge of hills separating this rancho from Suisun; and the fourth is the straits of Carquines.

MANUEL ⋈ VACA.

U. S. law agent present.

Sworn to, and his mark made, before me, this 15th of February, 1853.

HARRY J. THORNTON,
Commissioner.

Filed in office Feb'y 15, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 2, p. 513.

GEO. FISHER, *Sec'y.*

Deposition of S. Vallejo.

SAN FRANCISCO, *Feb. 16th*, 1853.

On this day, before Commissioner Hiland Hall, came Salvador Vallejo, a witness in behalf of the claimants, M. G. Vallejo and assigns, and was duly sworn, his evidence being interpreted by the secretary.

In answer to enquiries by counsel for the claimants, the witness testified as follows:

My name is Salvador Vallejo; my age is thirty-eight years, and I reside in Sonoma.

I know the rancho called Suscol, and have known it from the year 1833. It is situated in the county of Solano. I have heard it called the rancho National, but that was not the true name. It has been occupied for the last twelve years by M. G. Vallejo, with some sixteen thousand herd of cattle, three thousand breeding mares, two or three hundred tame horses, and two thousand hogs. He has had houses and corrals on the land, and cultivated portions of it.

When he first established the rancho he put on it about three thousand five hundred head of cattle. They were taken from Petaluma. He still continues to occupy the land.

The land is bounded on one side by the river Napa and esteros, on another by the bay of Suisun and Benicia, on another by the road leading from the rancho of Cayetano Juarez to Suisun, and on another by the arroyo de Suscol. The rancho of Cayetano Juarez is called Tulucay.

SALVADOR VALLEJO.

Sworn and subscribed before me.

HILAND HALL,
Commissioner.

Filed in office July 16, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 2, p. 580.

GEO. FISHER, *Sec'y.*

Deposition of Pablo de la Guerra.

SAN FRANCISCO, *Feb'y* 17, 1853.

On this day, before Commissioner Harry J. Thornton, came Pablo de la Guerra, a witness in behalf of the claimants, M. G. Vallejo and assigns, petition No. 291, and was duly sworn, his evidence being given in English.

The United States associate law agent was present.

In answer to questions by claimants' counsel, the witness says:

My name is Pablo de la Guerra; my age is thirty-three years; I was born in California, and now live in Santa Barbara.

I am acquainted with the handwriting of Manuel Micheltorena and Francisco Arce, having often seen them write; their signatures to the papers before me, marked Exhibit No. 1, and attached to this deposition, are, to the best of my knowledge and belief, their genuine signatures.

PABLO DE LA GUERRA.

Sworn to and subscribed before me, this 17th day of February, 1853.

HARRY J. THORNTON, *Com'r.*

Filed in office Feb'y 17, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 2, p. 588.

GEO. FISHER, *Sec'y.*

Deposition of John B. R. Cooper.

SAN FRANCISCO, *Feb'y* 18, 1853.

On this day, before Commissioner Hiland Hall, came John B. R. Cooper, a witness in behalf of the claimants, M. G. Vallejo and assigns, petition number 291, and was duly sworn, his evidence being given in English.

The United States associate law agent was present.

In answer to enquiries by counsel for the claimants, the witness testified as follows:

My name is John B. R. Cooper; my age is sixty years, and I reside at Monterey. I have lived in California about thirty years.

From the year 1839 to 1844, I had charge of a schooner belonging to the department of the Californias, and named the California. The schooner was employed in the service of the government in carrying mails and supplies and troops between Monterey and Mazatlan and the coast of Mexico.

I took some supplies in the schooner from Petaluma to San Pedro for Governor Micheltorena, and by his direction, about the year 1842 or 1843.

The supplies consisted of wheat, corn, barley, beans, and peas, some blankets, tanned leather, shoes, and deer skins. I cannot tell the value of the articles. The vessel carried about eighty-five tons, and was loaded full. M. G. Vallejo furnished the supplies with which the vessel was loaded.

I saw Micheltorena at Los Angeles before I went after the supplies, and he told me General Vallejo had offered twenty thousand dollars for the tract of land called Suscol, and he sent me after the supplies which I understood from him were to go in payment for that land. The supplies were furnished before Micheltorena came up to Monterey, and the same summer he came there.

In answer to enquiries by the associate law agent, the witness testified as follows:

The tract called Suscol was occupied previous to 1843, first by the mission of San Francisco Solano, and afterwards by the government troops, and was called the National farm.

JOHN B. R. COOPER.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Feb'y 18, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 2, p. 594.

GEO. FISHER, *Sec'y.*

Deposition of J. D. Marks.

UNITED STATES LAND COMMISSION,
SAN FRANCISCO, *Oct.* 26, 1854.

On this day, before Commissioner Alpheus Felch, came J. D. Marks, a witness on behalf of the claimants, M. G. Vallejo and assigns, case No. 291, who, after being duly sworn, deposed as follows.

Questions by Mr Peachy, Att'y for Claimants.

Question 1. Please state your name, age, and place of residence.

Answer. My name is J. D. Marks; my age is thirty-seven years, and I reside at present at San Francisco.

Question 2. Did you ever reside in the city of Mexico? If yea, when, and in what business was you engaged.

Answer. I resided in the city of Mexico in the years 1850, 1851, and until October, in the year 1852. I was an attaché of the legation of the United States at the time that the Hon. Robert T. Letcher was minister from the United States to the Mexican government.

Question 3. Was you acquainted with Manuel Micheltorena, formerly governor of California? If yea, state how long you knew him, during what time, and what degree of intimacy was there between you.

Answer. I was acquainted with, and first became acquainted with him while he was a col. in the Mexican army, and was stationed at Metamoras on the Rio Grande. I think it was in the year 1832. I knew him from that time until his death. I was on intimate terms with him; our intimacy was of a social character only.

Question 4. Please state whether you ever had any conversation with said Micheltorena relative to his government of California, and as to the extraordinary powers possessed by him.

Answer. I had frequent conversations with him on this subject in June, July, August, and September, 1852, at the city of Mexico. He was a frequent visitor at the United States legation.

Question 5. State what you know in relation to his official acts while governor of California, under his said extraordinary powers, having been approved or disapproved by the general govenment.

Answer. In frequent conversations, he stated that all his official acts while gevernor of California, had been approved of by his government. He always enjoyed the confidence of his government, as far as I know, after he left California. I think he was then appointed adjutant general of the Mexican army, and after the treaty of Guadalupe Hidalgo he was appointed governor and commandant general of Yucatan, where he was sent to quell a disturbance, and after that he was appointed one of the supreme court of war, which is a high office. I understood he was afterwards appointed governor and commandant general of the State of Queretaro, in which capacity he was acting at the time of his death.

Question 6. Please state whether in those conversations he said anything about his making grants of land in California.

Answer. He did. He stated that he had given a great many grants of land. He mentioned the number, but I do not recollect the number. He said he very rarely refused them to anybody, and that he had given a great many to soldiers and others, and that he had no doubt he had given a good many that had never been presented to the land commission. He said that at that time the lands of California were considered of very little value.

Question 7. Did you ever hear from any person besides himself, that Micheltorena's acts, while governor of California, had been approved by the Mexican government.

Answer. On one occasion I was requested to present a land title granted by Micheltorena, to Jose Fernando Ramirez, secretary of State of Mexico at that time, for his opinion thereon. I presented it to him, and he replied that it was a good legal title, and would have been binding in Mexico, as Micheltorena had full powers delegated to him by Santa Anna, under the bases of Tacubaya, to grant lands in California. This interview with Ramirez was in July or August, 1852.

Question 8. From your conversations with Micheltorena did you infer that his said acts had been approved by any express act of Mexican litigation confirming them, or by the tacit acquiesence of the government?

Answer. I should infer that it was by tacit acquiesence of the executive. I am not aware that the Congress of Mexico ever acted on the subject, nor do I believe that they were ever referred to Congress, or that it was ever deemed necessary to refer them to that body.

Questions by Mr. Blanding, Associate Law Agent.

Question 1. In your conversations with Micheltorena and other persons, did you learn that this approval was general or special, and was such approval expressed or merely implied?

Answer. It was general. Micheltorena stated that they had been affirmed, but did not say how.

Question 2. In your conversation with Micheltorena, as to his making many grants in California, did the conversation refer to grants made under his extraordinary powers, or the usual ordinary powers of the governor?

Answer. He stated that he had made many grants under the extraordinary powers with which he was invested. He did not specify what they were, or their particular character. I think he mentioned that he had been very liberal to General Sutter.

Question 3. Do you know whether the tacit approval was sufficient to ratify the exercise of extraordinary powers?

Answer. It is my opinion that it was sufficient. I have heard nothing to the contrary.

Question 4. Do you know whether an express disapproval was necessary?

Answer. I have known the Mexican government to disapprove many acts of their officers.

J. D. MARKS.

Subscribed and sworn to before me, this 26th day of October, 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office Oct. 26, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 528.

GEO. FISHER, *Sec'y.*

Deposition of Hans Patten.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *Oct.* 25, 1854.

This day came before Peter Lott, a commissioner for taking testimony to be used before the board of United States land commissioners in said State, Hans Patten, a witness on behalf of the United States in case No. 291 on the docket of said board, wherein M. G. Vallejo and assigns are claimants, and said witness being duly sworn, deposed as follows:

The counsel for claimants, Mr. Peachy is present.

Questions by U. S. Law Agent.

Question 1. What is your name, age, and residence?

Answer. My name is Hans Patten; my age sixty years; my residence in Solano county, Cal'a.

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Question 2. Look at the description of the Suscol rancho, as contained in the paper now shown to you, marked A, P. L., exhibited in this deposition, being the deposition of James M. Hudspeth, heretofore taken in this case, and state how much land said rancho must contain according to that description, and your means of knowledge.

Answer. According to this description of boundaries, said rancho will contain an amount of land equal to 17 or 18 square leagues; my means of knowledge are derived from my having run the township lines, which have been surveyed by the United States surveyor general, and also by having surveyed the general meanders of Napa and Suscol creeks, and the shores of the straits of Carquines and of the bay of Suisun. I have been engaged in making a county map of Solano county, and found it necessary to make these surveys in order to make a correct map.

Cross-examined by Mr. Peachy, Counsel for Claimant.

Question 1. Do you know where the Suscol creek is?

Answer. I do; it is a small creek which heads up in the Tolenas mountains, and runs in a westerly, or rather southwesterly direction into Mapa creek. The distance from the head to the mouth is upwards of two miles.

Question 2. What is the distance from the mouth of the Suscol creek to the mouth of Napa creek?

Answer. It is about twelve miles; I mean by the mouth of Napa creek the place where that creek empties into the straits of Carquines.

Question 3. What is the distance from the head of the Suscol creek to the three peaks?

Answer. It is between two and three miles.

Question 4. What is the distance, in a southeasterly direction, from the three peaks to Suisun creek?

Answer. A line drawn southeast from the peaks to said creek would be three miles long.

Question 5. What is the general direction of Suscol creek from its mouth to its head.

Answer. The creek from its mouth to its head lies in a northeasterly direction.

Question 6. What is the direction from the head of Suscol creek to the three peaks?

Answer. It is a little east of north.

Question 7. How far is it from the point where a line drawn southeast from the three peaks would strike Suisun creek to the mouth of that creek?

Answer. In a direct line, it is about four and a half miles to what we call the mouth, which is where said creek empties into the tules, about one and a-half miles above the town of Cardilea.

Question 8. From the mouth of Suisun creek, measuring around the edge of the dry land on the borders of the tule, how far is it round to the mouth of Napa creek?

Answer. It will be from 23 to 25 miles, following the curves of the dry land, estimating the smaller curves or sinuosities. The line runs round a promontory about two miles wide, leaving out the tule, and about 18 miles long from Benicia to the Tolenas peaks. The greatest length of the rancho is about 18 miles, and its greatest width about 10 miles, leaving out the tule lands.

Question 9. Independent of the tules, what quantity of land do you say this rancho will contain?

Answer. It cannot be less than 15 leagues.

Question 10. In this estimate do you include all the land in the following boundaries: Beginning at the mouth of Napa creek, running up the Napa creek, on the Suscol shore, to the mouth of Suscol creek; thence on the Suscol side of the Suscol creek to its head; thence in a straight line to the three peaks; thence southeast to Suisun creek; thence along the Suscol shore of that creek to the mouth of that creek, as before described by you; thence round the shore to the mouth of Napa creek?

Answer. I do estimate according to these boundaries. I mean to apply my estimate of 18 leagues to include the tules, and of 15 leagues to exclude them.

Question 11. Are you so well acquainted with all the natural objects just mentioned as to be certain that you know the objects alluded to?

Answer. I think there is no possibility of my being mistaken in them; I know them all well.

Question 12. Do you know whether or not any part of Suisun rancho lies within these limits?

Answer. I have examined the map of the Suisun rancho as recorded in the recorder's office at Benicia, and I have also examined the evidence taken before this board by the person who gave the judridical possession of said Suisun rancho, and from these, I think about two leagues of that rancho will fall within these limits.

H. PATTEN.

Subscribed and sworn to before me, on this 25th day of October, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office Oct. 30, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 547.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of Jose de la Rosa.

OFFICE OF THE BOARD OF LAND COMMISSIONERS FOR CAL'A,
SAN FRANCISCO, *June* 2, 1852.

On this day, before Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Jose de la Rosa, a witness in behalf of the claimant, M. G. Vallejo, being No. 250 on the docket of said commissioners, and was duly sworn, his evidence being given in the Spanish language, and interpreted by George Fisher, secretary.

The United States law agent present.

Questions by Claimant.

Question 1. What is your name, age, and residence?

Answer. My name is Jose de la Rosa; my age is sixty-one years; I reside in Sonoma, and have resided there 21 years.

Question 2. Do you know the rancho called Petaluma, claimed by M. G. Vallejo? If so, say what you know about its occupation by the claimant.

Answer. I do know the rancho of Petaluma; it is situated between Sonoma and Petaluma creeks. General Vallejo first occupied it in 1833 or 1834. He built a small house on it in 1833 or 1834. He built another large house on it in 1839. He has had houses and cattle on it ever since 1834; sometimes as many as thousand. He still occupies it. He has expended large sums of money on it in building houses, making fences, and cultivating the land.

Question 3. Do you know about the signatures of Jose Figueroa, Juan B. Alvarado, Manuel Micheltorena, Francisco Arce, Pio Pico, Jose Maria Covarrubias, and Manuel Jimeno? If so, say whether their signatures to the papers before you, marked R, are genuine.

Answer. I am acquainted with the signatures of Jose Figueroa, Juan B. Alvarado, Manuel Micheltorena, Manuel Jimeno, Francisco Arce, Pio Pico, and Jose Maria Covarrubias, having often seen them write; their signatures to the papers before me, marked R, are genuine.

Questions by the Law Agent.

Question 1. Is the whole or any part of this rancho called Petaluma within ten leagues of the sea coast, or any bay of the ocean? And if so, what part.

Answer. It is not.

Question 2. Was the land of the rancho occupied by or within the limits of any mission on Novem'r 21st, 1828?

Answer. It was not.

Question 3. To what extent has the land on this rancho been cultivated?

Answer. I do not know to what extent the land was cultivated, but I know there was at times as much as seven thousand bushels of wheat, and about from two to three thousand bushels of barley, beans, and other vegetables, a large quantity, and also corn.

JOSE DE LA ROSA.

Sworn to and subscribed before me, the 2d of June, 1852.

HARRY J. THORNTON, *Com'r.*

I hereby certify the foregoing to be a true and correct copy of the original deposition in case No. 250, M. G. Vallejo vs. The United States, for Petaluma, now on file in this office.

In testimony whereof, I have hereunto signed my name officially.

San Fran'co, Cal'a, November 7th, 1854.

GEO. FISHER, *Sec'y.*

Filed in office Nov. 9, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 1, p. 541.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of J. M. Hudspeth.

OFFICE OF THE BOARD OF COMMISSIONERS, &c.

This day, before Commissioner Alpheus Felch, came James M. Hudspeth, a witness in behalf of claimant, M. G. Vallejo, No. 250, who, after being duly sworn, deposed as follows:

Questions by Mr. Peachy, Attorney for Claimants.

Question 1. What is your name, age, and place of residence?

Answer. My name is James M. Hudspeth; my age is 40 years, and I reside in Sonoma county, California; I have lived in California since July, 1843.

Question 2. Are you acquainted with the rancho of Petaluma, in Sonoma county? If so, how long have you known it.

Answer. I am; I have known it since the fall of 1844.

Question 3. What was the condition of the rancho at that time in regard to improvements and occupancy?

Answer. There was a large adobe house on it; a field was ditched in, and there was a large number of cattle and horses on it. The place was occupied at that time by General M. G. Vallejo, who spent a part of his time there, and a part at Sonoma; I have seen him at both places; I made a survey of the rancho in the spring of 1847; I think it was in the month of June.

Question 4. What did you have to guide you in making this survey?

Answer. I had a diseño or plan. Mr. O'Farrell did the platting of the survey, and had the title papers. He gave me only the plan to survey by. I did the work under Mr. O'Farrell, who employed me.

Question 5. Do you remember enough about the plan to be able to state whether it was an authentic document connected with the title?

Answer. I do not.

Question 6. What became of that document?

Answer. I cannot say. I delivered it up to Mr. O'Farrell.

Question 7. State what were the boundaries of the rancho of Petaluma, as shown by this plan or diseño.

Answer. It was bounded on the west and south by the Petaluma creek; on the east by the river Sonoma, and on the north and west by the hills called Roblar de la Miseria. These hills are very low, and covered with oak timber.

Question 8. Describe the line as run by you in making the survey on the north and northwest portion of the boundary, after leaving the estuary of Petaluma.

Answer. The line run by me ran across a plain after leaving said estuary, about one mile in a direction a little west of north, according to my best recollection. It commenced about eight hundred yards above the upper hole of water, and near the place where the two flat hollows come together, and after running about a mile across the plain, where there is no timber. It then ran through timbered land about one mile, and then passing over some small hills, it ran to the foot of the hills that divide the waters of the Sonoma river from those of the Petaluma creek. These hills ran nearly north and south through the whole extent of the Petaluma rancho. The line above described, is nearly a straight line. From the point last mentioned, I ran to the top of said dividing hills, crossing some streams, and varying my course towards the south; and from the top of said hills I ran down to Sonoma river, leaving a branch of that river on my right. I struck that river at a point opposite the Agua Caliente rancho, and about two miles or two and a half below the Guilicos plains.

Question 9. Did you have any difficulty in locating the land from the plan which you had in your possession?

Answer. I did not.

Question 10. What part of your boundary run along the hills of Roblar de la Miseria?

Answer. They formed the north and west boundary. These hills are a spur from the main dividing ridge or hills, of which I have before spoken, and run off at nearly right angles to them, and extend out nearly to Las Pozas de Cantua.

Question 11. Look on the map now presented to you, and marked Exhibit No. 1, with the initials A. F., annexed to the deposition of Salvador Vallejo, this day taken in this case, and state what you know of it.

Answer. I recognize this map as a traced copy of the map of the survey above mentioned, made by me.

Question 12. Describe the position of Las Pozas de Cantua on the map.

Answer. The tide water flows at the Petaluma river, about a mile above the place where the road from San Rafael to Sonoma, is laid down on the map, crossed it. Las Pazas de Cantua are situated near the extreme western corner of the rancho, and about two and a half miles from the place where said road crosses said river.

JAMES M. HUDSPETH.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no interrogatories to the witness.

Subscribed and sworn to before me, this 9th day of November, 1853.

ALPHEUS FELCH, *Comm'r.*

I hereby certify the foregoing to be a true and correct copy of the original deposition in case No. 250, M. G. Vallejo v. The United States, for the place named Petaluma, now on file in this office.

In testimony whereof, I have hereunto subscribed my name officially.

San Francisco, Cala., Nov. 7, 1854.

GEO. FISHER, *Sec'y*

Filed in office Nov. 9, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 3, p. 384.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of J. B. R. Cooper.

OFFICE OF THE BOARD OF COMM'RS, &c.

This day, before Commissioner Alpheus Felch, came John B. R. Cooper, a witness in behalf of claimant, M. G. Vallejo, No. 250, who, after being duly sworn, deposed as follows:

Questions by Mr. Peachy, Attorney for Claimant.

Question 1. What is your name, age, and place of residence?

Answer. My name is John B. R. Cooper; my age is 60 years, and I reside at Monterey, in Cal'a.

Question 2. How long have you known the rancho of Petaluma?

Answer. Since 1832.

Question 3. Please state what you know about the occupation, cultivation and improvements made on said land by Gen. M. G. Vallejo.

Answer. I was there on his farm in 1834, and there was then a house on the place, and corrals, sowings, cattle and horses. I remained at that time about three months, and was in the neighborhood about three years, going back and forwards frequently by this place. General M. G. Vallejo occupied the rancho during all that time. His family lived on the place, and he was there a part of the time, and a part of the time he was at Sonoma, but their residence was on the rancho. I knew his family intimately. There were at one time 500 cattle, principally breeding cattle, or thereabout, on the place; this was in 1834. The stock on the place continued afterwards to increase, and other cattle were put on. The rancho has always been considered General Vallejo's farm, and he has always had it occupied since the time above mentioned.

JOHN B. R. COOPER.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no questions to the witness.

Subscribed and sworn to before me, this 9th day of November, 1853.

ALPHEUS FELCH, *Comm'r.*

I hereby certify the above to be a true and correct copy of its original, in case No. 250, now on file in this office.

In testimony whereof, I have hereunto signed my name officially, San Francisco, Cala., this 8th November, A. D. 1854.

GEO. FISHER, *Sec'y.*

Filed in office, Nov. 9, 1854.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of Geo. C. Yount.

OFFICE OF THE BOARD OF COM'RS OF
CALIFORNIA LAND CLAIMS.

SAN FRANCISCO, *May* 31, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in the State of California, came George C. Yount, a witness procured in behalf of the claimant, M. G. Vallejo, whose petition is No. 250 on the docket of the board, and was duly sworn.

The law agent was notified, and did attend.

Questions by Claimant.

Question 1. What it your name, age, and place of residence?

Answer. My name is George C. Yount, age fifty-eight; residence in Napa co., State of Cal'a.

Question 2. Do you know the rancho called Petaluma, claimed by M. G. Vallejo? And if so, say where it is situated, how long it has been occupied, and by whom.

Answer. I do know the above rancho; it is situated between Petaluma creek and Sonoma creek, on the north side of San Pablo bay. In 1834 this land was occupied by the claimant, M. G. Vallejo; he built a house on it in the same year, and he has continued to occupy the land ever since. He has cultivated portions of the land, as much as 200 acres, some years more, some years less; he has also occupied it with cattle and horses, sometimes as many as 2,000 head. He has also spent large sums of money in improvements on the land, probably as much as eighty thousand dollars. I have myself worked on the houses upon the land at various times since 1834.

Questions by Law Agent.

Question 1. Is this land within ten leagues of the sea coast?

Answer. I should think that at the nearest point it is about thirty miles from the sea coast. I don't know exactly how many leagues there are in the tract.

GEORGE C. YOUNT.

Sworn and subscribed before me, this 31st of May, 1852.

HARRY J. THORNTON, *Comm'r.*

I hereby certify the foregoing to be a true and correct copy of the original deposition in case number 250, M. G. Vallejo v. The United States, for the place named Petaluma, now on file in this office.

In testimony whereof, I have hereunto subscribed my name officially.

San Francisco, November 7, 1854.

GEO. FISHER, *Sec'y.*

Filed in office Nov. 9, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Record of Ev., vol. 1, p. 523.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of S. Vallejo.

OFFICE OF THE BOARD OF COM'RS, &c., &c.

This day, before Commissioner Alpheus Felch, came Salvador Vallejo, a witness in behalf of claimant, M. G. Vallejo, No. 250, who, after being duly sworn, deposed as follows. The witness spoke the Spanish language, and the secretary to the board acted as interpreter:

Questions by Mr. Peachy, Attorney for the Claimant.

Question 1. What is your name, age, and place of residence?

Answer. My name is Salvador Vallejo; I am forty years of age, and reside in Napa county, California.

Question 2. Are you acquainted with the rancho of Petaluma? And if so, how long have you known it.

Answer. I am, and have been acquainted with it since 1833.

Question 3. Do you know at what time General M. G. Vallejo took possession of it?

Answer. I do; it was in 1833 or 1834.

Question 4. What improvements were made by said Vallejo on the premises, and what stock has he had on it since he first took possession ?

Answer. He has built several adobe houses on it, corrals and fences; he placed from three to four thousand head of cattle on it, and four hundred horses; about three or four hundred acres of the land are under cultivation. He built the first house in 1833; this was an adobe house. General M. G. Vallejo did not live there at that time, but I lived there, and he came there from time to time, and spent a part of his time there.

Question 5. What office did General Vallejo hold at that time under the Mexican government?

Answer. He was the military commandant of San Francisco, and had command of the whole northern frontier of California.

Question 6. What was known as the northern frontier of California?

Answer. All the territory north of the bay of San Francisco, including Sonoma, Napa, Solano, Yolo, and Shasta counties.

Question 7. Was the place known as the rancho of Petaluma within this northern frontier?

Answer. It was.

Question 8. Where were the head-quarters of said commandant in 1833 and 1834?

Answer. In San Francisco. They were transported to Sonoma subsequently to 1834, but I do not recollect at what time—I mean the present town of Sonoma.

Question 9. How far is the rancho of Petaluma from the town of Sonoma, where the head-quarters were?

Answer. The nearest point of the land of said rancho is one and a half miles from said town.

Question 10. How far was the house on said rancho from said town of Sonoma?

Answer. About three leagues, Spanish measure.

Question 11. How long did General Vallejo remain in office as military commandant?

Answer. From 1834 until the invasion of the country by the United States.

Question 12. Were the head-quarters ever changed from Sonoma after they were first established there?

Answer. They were not.

Question 13. When did Gen. Vallejo build his large house on the rancho of Petaluma?

Answer. He was building it some four years. It is not finished yet. It has remained about nine years in its present condition. I cannot recollect when it was began.

Question 14. Did not Gen. Vallejo occupy the house?

Answer. He did.

Question 15. How long did Gen. Vallejo occupy the premises from the time he first took possession of it?

Answer. He has occupied it from that time to the present day.

Question 16. Can you state how much the large house built by General Vallejo cost?

Answer. I cannot make an estimate of it; I suppose about eighty thousand dollars.

Question 17. What was the largest amount of stock on the rancho at any one time since he took possession?

Answer. There were about two thousand head of cattle, about three thousand head of horses, about three thousand sheep, and a small stock of hogs, at one time. The largest amount of stock there was about the time the American invasion took place, in 1846.

Question 18. Please describe the boundaries of Petaluma as it has been claimed by Gen. Vallejo.

Answer. The boundaries as known to us are the river Sonoma, the (estero) estuary of Petaluma, the hills known by the name of Roblar de la Miseria, which adjoin the rancho of the same, and the land of Miguel Alvarado. I do not recollect the name of Alvarado's rancho, but I think it is Yulupa. I believe the estuary of Petaluma forms a boundary about four leagues, commencing at the mouth of the estuary.

Question 19. How does the Sonoma river form a boundary?

Answer. That river empties into the bay of Sonoma from its mouth, and running up about seven leagues, it forms a boundary of said rancho. The bay of Sonoma is the boundary of the rancho between the mouth of the Sonoma river and the estuary.

Question 20. How far is it between the mouth of the estuary and the mouth of said river?

Answer. It is about two or three miles in a direct line on dry land; there is a marsh between the two along the shore.

Question 21. Do you know the rancho called Agua Caliente, near Sonoma?

Answer. I do.

Question 22. What is the western boundary of that rancho?

Answer. The river Sonoma.

Question 23. How far does the Agua Caliente rancho border on said river?

Answer. Up to the creek called Calabeza.

Question 24. What is the name of the rancho on the opposite side of the Calabeza creek?

Answer. Guilicos.

Question 25. Do you know the situation of Laz Pozas de Cantua?

Answer. I do. They are in the county of Sonoma. They are at the foot of the hills called Roblar de la Miseria, of which I have spoken. The distance from the town of Petaluma to the Pozas is about two miles.

Question 26. Are the hills of the Roblar de la Miseria well defined, and how are they situated?

Answer. They are well defined. They come down to the estuary of Petaluma; they form the boundary of the Petaluma rancho on the west, about four miles, more or less.

Question 27. Are Las Pozas de Cantua well known?

Answer. They are. They are water holes, or pools of water caused by the currents from the mountains in the rainy season, and they have become prominent. They communicate with each other in the rainy seasons. They are water holes in gulches or ravines.

Question 28. Where do the waters which flow down the ravine where the Pozas are, empty?

Answer. Into the estuary of Petaluma.

Question 29. What is the estero Alour Palino?

Answer. It is a part of the estuary of Petaluma, so called by the Indians, on the side which they occupied. The present city of Petaluma is on that side of the estuary, which is the west side.

Question 30. Did you ever see the original diseno of the Petaluma rancho which accompanied the petition or the title papers?

Answer. I saw it some twelve years ago.

Question 31. Look on the map or diseño now presented to you, marked Exhibit No. 1, with the initials A. F., hereto attached, and state if from your recollection you recognize it as a copy of the diseno which you then saw.

Answer. It is very similar to the one I then saw. There is a slight difference. There was a line drawn on that diseno through the valley of Sonoma, on the east side of the Sonoma river. I do not find any other difference between them.

SALVADOR VALLEJO.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no questions to the witness.

Subscribed and sworn to before me, this ninth day of November, 1853.

ALPHEUS FELCH,
Commissioner.

I hereby certify the foregoing to be a true and correct copy of the original deposition in case No. 250, M. G. Vallejo v. The United States, for the place named Petaluma, now on file in this office.

In testimony whereof, I have hereunto signed my name officially.
San Francisco, California, November 6th, A. D. 1854.

GEO. FISHER, *Secretary*.

Filed in office Nov. 9, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 3, p. 380.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of J. O'Farrell.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *M'ch* 29, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of United States land commissioners in said State, Jasper O'Farrell, a witness on behalf of the claimant in case No. 250 on the docket of said board, in which Mariano G. Vallejo is the claimant, and the said Jasper O'Farrell being duly sworn on oath, deposed in English as follows, to wit:

The U. S. law agent is present.

Questions by Mr. Peachy, Attorney for Claimant.

Question 1. What is your name, age, and present residence?

Answer. My name is Jasper O'Farrell; my age 36 years; my residence Sonoma county, California.

Question 2. How long have you resided in California?

Answer. Over ten years.

Question 3. Did you ever make a survey of the rancho Petaluma? If yea, when did you make it, and what documents relative to the title of said rancho had you in your possession when you made such survey.

Answer. I had it surveyed by my deputy, Mr. Hudspeth, about May or June, 1847. I took a copy of the original title handed me by General Vallejo; also a copy of a diseno attached to that title, which documents I gave to Mr. Hudspeth as a portion of his instructions to execute the survey.

The diseno which I gave to Mr. Hudspeth was a traced copy which I made myself from the original, which was with the original title papers, and which, I think, I returned to General Vallejo with these papers. I am not certain that I returned it.

Question 4. Have you that original diseno in your possession, or do you know where it is?

Answer. I have not, nor do I know where it is.

Question 5. Was that diseno itself an original or a copy, and was it in any manner authenticated?

Answer. The diseno which I copied was with the title papers, and if they were original it was. It was marked the same as they were.

Question 6. Do you recollect the contents of that diseno as far

Filed in office Nov. 9, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 3, p. 380.

GEO. FISHER, *Sec'y.*

Certified copy Deposition of J. O'Farrell.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *M'ch* 29, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of United States land commissioners in said State, Jasper O'Farrell, a witness on behalf of the claimant in case No. 250 on the docket of said board, in which Mariano G. Vallejo is the claimant, and the said Jasper O'Farrell being duly sworn on oath, deposed in English as follows, to wit:

The U. S. law agent is present.

Questions by Mr. Peachy, Attorney for Claimant.

Question 1. What is your name, age, and present residence?

Answer. My name is Jasper O'Farrell; my age 36 years; my residence Sonoma county, California.

Question 2. How long have you resided in California?

Answer. Over ten years.

Question 3. Did you ever make a survey of the rancho Petaluma? If yea, when did you make it, and what documents relative to the title of said rancho had you in your possession when you made such survey.

Answer. I had it surveyed by my deputy, Mr. Hudspeth, about May or June, 1847. I took a copy of the original title handed me by General Valiejo; also a copy of a diseno attached to that title, which documents I gave to Mr. Hudspeth as a portion of his instructions to execute the survey.

The diseno which I gave to Mr. Hudspeth was a traced copy which I made myself from the original, which was with the original title papers, and which, I think, I returned to General Vallejo with these papers. I am not certain that I returned it.

Question 4. Have you that original diseno in your possession, or do you know where it is?

Answer. I have not, nor do I know where it is.

Question 5. Was that diseno itself an original or a copy, and was it in any manner authenticated?

Answer. The diseno which I copied was with the title papers, and if they were original it was. It was marked the same as they were.

Question 6. Do you recollect the contents of that diseno as far

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as regards the boundaries of the land, and the natural objects on it? If yea, state them.

Answer. I recollect a portion of the contents, not all. I recollect distinctly three sides of the boundaries of the grant—the east, the south, and the west and northwest.

The estero of Sonoma was the eastern boundary; the overflowed lands of the bay of San Francisco bounded the south, and on the west was the estero of Olompali, now called the estero of Petaluma, and the same partly on the northwest. On the northeast the Sonoma creek continued to be the boundary where the land joins the place Agua Caliente. The survey was made in exact accordance with the diseño.

Question 7. Look at the traced copy handed you, marked Exhibit No. 1., A. F., annexed to the deposition of Salvador Vallejo on November 9th, 1853, and state what you know about it.

Answer. It appears to be a copy of the survey made by Mr. Hudspeth on a reduced scale, about one-eighth of the size of that which I made from his field notes. That map was, perhaps, sixteen times as large as this. It seems to be a correct representation of the same survey.

Question 8. From the diseno which you saw with the title papers, could you or your deputy locate the land attempted to be described by that diseno?

Answer. As well as I can recollect the title papers, as well as the diseno, mentioned the boundaries, and I am positive that the map and survey which I made, were made in exact accordance with the said title papers and diseno, and, as well as I can recollect, I had no difficulty in finding the boundaries.

Question 9. What is your profession, how long have you followed it, and have you had much practice in it?

Answer. I am a civil engineer by profession. I have followed it about twenty years. I have practised it about five years in California. I have located a good many boundaries from original titles.

Question 10. What official position have you held in this country under the Mexican and American governments?

Answer. When I had the survey spoken of made, I held the appointment of surveyor of the northern district of California under Gen. Mason, the military governor of the country. I had an appointment before that, from Governor Micheltorena, as surveyor of the department.

(The U. S. law agent objects generally to all the foregoing examination as irrelevant and incompetent, as the survey mentioned was made without any lawful authority.)

Cross-examined by U. S. Law Agent.

Question 1. What were your duties as surveyor under the appointment of Governor Mason?

Answer. My duty was to make correct surveys for such parties as applied to me for that purpose. I had no public duties to perform.

Question 2. How long have you been personally acquainted with the rancho Petaluma?

Answer. I passed over the rancho about December, 1843, or January, 1844; that was my first acquaintance with it from actual observation. I have known General Vallejo since that time. Since that time he has generally lived in Sonoma. I have seen him living at Petaluma. I have seen his family residing generally at Sonoma. I have seen his family also at Petaluma, though I do not think they ever made their residence there. I am not sufficiently well acquainted with them to swear positively that they never lived during that period out of Sonoma.

Question 3. Is the residence of General Vallejo in Sonoma within the boundaries of the rancho of Petaluma?

Answer. No.

Question 4. Where are the field notes made for you by Mr. Hudspeth?

Answer. I think I have got them in my possession.

Question 5. Look at the document filed in this case, marked Exhibit, (annexed to the deposition of Jose de la Rosa, taken before Commissioner Harry J. Thornton June 2, 1852,) R., and say whether they contain the description by which you directed Hudspeth to make the survey?

Answer. I think these are the title papers given to me by General Vallejo from which to make the survey; they do contain the description of the land which, together with the diseno, governed my instructions to Hudspeth. The particular words are on the 6th page of said document, beginning at the 9th line from the top of the page, and reading as follows: "Que a mas de los diez sitios de ganado mayor que tiene concedidos en el parage de Petaluma, marcados y reconocidos desde el rio de Sonoma, hasta el estero de Olampali y Pozas de Cantua, resulta un sobrante de tierra incluido en el diseno original." And also on the 8th page of said document, and are rendered into English as follows: Bounded on the south by the estero of Olampali, north and east by the river of Sonoma, Agua Caliente and Guilicos, and west by the hills of the Roblar de la Miseria.

Question 6. Did the diseno which you mention comprehend a larger territory than the survey you made?

Answer. I don't recollect.

Question 7. Do the marks you find on this Exhibit No. 1, correspond exactly with the diseno you received from General Vallejo?

Answer. I did not make this. It appears to be a correct representation of the same tract of land, as shown by the map which I made of the survey. I think the north line on the original was a straight line; in this it is not, and in that, according to my best recollection, they do not correspond.

Question 8. In making the survey according to your field notes, where was the starting point?

Answer. It is so long since I have seen them, I cannot say positively, but I think it was where the road to San Rafael crosses the estero of Olumpali. Thence the line run south and east along the estero of Olumpali, and taking in the boundaries called for in the title, embracing about fifteen leagues of land; on the north and west the survey extended for quantity.

Question 9. Why was not a straight line made on the north?

Answer. According to the best of my recollection, it was because the grant called for the hills of the Roblar de Miseria, and the hills being crooked, the line was run to suit the lines of the hills.

Question 10. Describe the hills of the Roblar de Miseria.

Answer. They are rolling hills, and run directly across the plain from the estero of Olumpali to the Petaluma mountain, and are probably three or four miles wide. The north line of the survey could have been run anywhere along those hills, if it embraced the proper quantity of the land called for in the grant.

Question 11. How far is this land from the sea coast, and how far from the navigable waters of the bay of San Francisco or San Pablo?

Answer. The estero of Olumpali is navigable, and empties into the bay of San Pablo, and bounds a portion of the land. The rancho is about twenty-seven or twenty-eight miles from the sea. The house is thirty-three or thirty-four miles from the sea. The rancho is about two miles across it from the side next to the sea.

Question 12. Have you made other surveys for General Vallejo, and have you ever heard General Vallejo say how much land he claimed in 1846?

Answer. I have made other surveys for him, and have never heard him say how much he claimed. I understood he claimed the rancho of Suisun, containing four leagues, and the rancho of Suscol, containing nine or ten leagues, and the rancho de Agua Caliente in 1846; the last named rancho contains 2½ leagues.

(The attorney of the claimant objects to the last question and answer on the ground that it is not competent to prove what is stated.)

Question 13. To what paper was the diseno given to you by General Vallejo attached?

Answer. It was attached, as well as I recollect, to the original title.

JASPER O'FARRELL.

Subscribed and sworn to before me, on this 29th day of March, A. D. 1854.

PETER LOTT, *Comm'r, &c.*

I hereby certify the foregoing to be a true and correct copy of the original deposition in case No. 250, M. G. Vallejo v. The United States, for the place named Petaluma, now on file in this office.

In testimony whereof, I have hereunto subscribed my name officially. San Francisco, Cal., Nov. 6, A. D. 1854.

GEO. FISHER, *Sec'y.*

Filed in office Nov. 9th, 1854.

GEO. FISHER, *Sec'y.*

Certified copy Affidavit of M. G. Vallejo, case No. 250.

Number 250.

In the claim of Mariano G. Vallejo to Petaluma rancho.

Mariano G. Vallejo, the claimant in this case, being duly sworn, deposes and says: That the original diseno or map of the tract of land called Petaluma, claimed by him in this case, was made by Agustin V. Zamorano, and filed in the espediente of the title to said land made to deponent in 1834 by Governor Figueroa.

That on the loss of the original title-papers, and the issuing of a new title by Governor Micheltorena, in the year 1843, he, the deponent, was furnished with a duly certified copy of said diseno from the archives by Manuel Jimeno, the secretary of the government, and legal custodian of said archives.

That said duly authenticated map or diseno, accompanied said title so issued by Governor Micheltorena, and represented the land so granted.

That in the year 1847, about the month of   , deponent gave said diseno or map to Jasper O'Farrell, the then recognized official surveyor of the northern district of California, requesting him, the said O'Farrell, to make a survey and accurate map of the land represented in said diseno and described in deponent's title-papers as the land or rancho of Petaluma.

That the said O'Farrell made such survey and map for deponent, but deponent has no recollection that said O'Farrell ever returned to deponent the said diseno, and is certain that he never did return it to him.

That if said diseno was ever returned to him, it has been lost or destroyed, and cannot now be found or produced.

That deponent has made diligent search for the same, and cannot find it; that he has no recollection of ever having seen it since it was delivered by the deponent to the said O'Farrell, in the year 1847, as aforesaid.

M. G. VALLEJO.

Sworn to and subscribed before me, this 9th day of February, 1854, the words "and is certain that he never did return it to him," having been previously inserted in the second line from the

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bottom of the first page; and the words "and believes that it never was returned to him," having been previously erased from the said line and the following.

THOMPSON CAMPBELL,
Commissioner.

I certify the foregoing to be a true and correct copy of the original affidavit on file in this office in case number 250, M. G. Vallejo vs. The United States.

In testimony whereof, I have hereunto signed my name officially.

San Francisco, November 6, 1854.

GEO. FISHER, *Sec'y.*

Filed in office November 9, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 3, page 697.

GEO. FISHER, *Sec'y.*

Original Title-papers—Soscol—H. I. T., No. 1, *annexed to Deposition of P. de la Guerra.*

[SELLO.]

Remito a V. S. el titulo del parage nombrado Soscol, sin tiendo este gob'no no acceptar la primera de las ofertas que V. S. por q. el supremo de la nacion tiene mandado se suspenda todo pago atrasado hasta 1o de Octubre, de 1841, lo le servira de regla para con sus subordinados cuya suspencion fue estendida hasta el desahogo de la hacienda publica y la que ann yo tuve q. sufrir una cantidad considerable de miles de pesos pero admito la oferta de los cinco mil ps. en efectos de esquilmos pa. los tropas pr. la imperiosa necesidad que tengo de ellos para mantener los a cuyo efecto mando la goleta California para que se sirva cargar la con quinientos anejas de mais, dos cientos cincuenta de frijol, dos cientos arrobas de carre seca y quinientos pares de zapatos o los materiales pa. hacerlos que me informan no serle dificil remitro y conociendo tambien q. no le serra a V. S. muy graboso suplico en carecidamente me mando dos mil pesos en plata en consideracion a hallarme el esario del departamento tan escaso q. desde mi llegada a el no ha producido por no haber entrada de buques amas de esto la tropa de mi espidicion se cocorse diriamente con dinero en memo por estar sujeta a diverso metodo de constablidad admor y costumbre, y los presidiales como V. S. sabre del modo que el resto del ejercito nacional y cuyo servicio agradecere sobre manera. Lo que comunico a V. S. para su conocim'to protestandolo a la vez mi consideracion y aprecio.

Dios y Libertad. Angeles, Marzo 16, de 1843.

MICHELTORENA.

S'or command'te m'tar de la linea de S'ta Ynes a Sonoma, Cor'l D. Guadalupe Vallejo.

Manuel Micheltorena, Gobernador Comand'te Generale Inspector de Ambas Californias:

[SELLO.]

Por cuanto el ciudadano Mariano Guadalupe Vallejo, coronel de cabelleria y comand'te militar de la frontera de Sonoma, ha pretendido para su beneficio personal y el de su familia el parage conocido con el nombre de Suscol, colindante por la parte del norte con los terrenos nombrados Tulcay y Suizun, y al Sur el estrecho de Carquines; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas a nombre de la nacion Mejicana he benido en concederle el terreno mencionado, declarandole la propiedad de el por las presente letras, sujetandose a la aprobacion de la ex'ma junta departamental y bajo las condiciones siguientes:

1a. El interesado ocurrira despues a este gob'no la rebalidacion del presente titulo en el papel del sello correspondiente presentando igualmente el diceno respectivo para poder con exactitud fijar los limites y los sitios de que se compone el terreno mencionado.

2a. Podra sercarlo sin perjudicar las travesias caminos y servidumbres lo disfrutara libre y esclusivam'te destinandolo al uso o cultivo que mas le acomode, pero dentro de un ano fabricara casa y estara habitada.

3a. Solicitara del juez respectivo que le de la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las majoneras algunos arboles frutales o silvestres de alguna utilidad.

4a. Si contraviniere a estras condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que serviendole de titulo el pres'to se tome razon de el en el libro a que corresponde se entregue al interesado pa. su resguardo y demas fines. Dado en la ciudad de los Angeles a quince de Marzo, de mil ochocientos cuarenta y tres.

MANUEL MICHELTORENA.

FRAN'CO ARCE, *S'rio Into.*

Queda tomada razon de este despacho a fo. 1a.

ARCE.

Sello Primero.—Ocho Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey en el Departamento de las Californias para los anos de mil ochocientos cuarenta cuatro y mil ochocientos cuarenta cinco.

MICHELTORENA. PABLO DE LA GUERRA.

[SELLO.]

Manuel Micheltorena, Gobernador Comandante Gral'e Inspector de Ambas Californias.

Por cuanto el ciudadano Mariano G. Vallejo, coronel de caballeria y comandante militar de la frontera de Sonoma ha solisitado de este gobierno la compra del terreno conocido con el nombre de Soscol en la jurisdiccion de dicha frontera, colindante por la parte del norte con las terrenos nombrados Tulcay y Suysun y por el este y sur con el estrecho de Carquines, Isla de la Yegua y estero de Napa; practicadas previamente las diligencias y averiguaciones concernientes, usando de los facultades con que me hallo investido por el sup'mo gobierno de la nacion mejicana he venido en venderle el espresado terreno de Soscol en la cantidad de cinco mil pesos q. recibio; este gobierno a su satisfaccion, declarandole la propiedad de el por las pres'tes letras en cuya virtud podia ocuparlo poscerlo libre y esclusivam'te, destinandolo el uso y cultivo q. mas le acomode sin restriccion alguna.

Por tanto mando que sirviendole de titulo el presente se tome razon de en el libro respectivo y sea reconocido por todas las autoridades de los departamt'o de la republica, entregandose al interesado como propiedad particular comprada al gobierno del departam'to en devida y legal forma.

Dado en Monterey a diez y nueve de junio de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENA.

Franc'o Arce, *S'rio Into.*

Queda tomada razon de este despacho en el libro respectiva.

ARCE.

Filed in office Feb'y 17, 1853.

GEO. FISHER, *Sec'y.*

[*For map see original, between pages* 78 *and* 79.]

Translation of Title-papers.

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[SEAL.]

I transmit to you the title of the place named Suscol, this government regretting that it cannot accept the first of the offers which you made, because the supreme government of the nation has ordered that all back pay be suspended which became due before the first of October, 1841, which will serve you as a rule with respect to your subordinates, which suspension was made to continue until the public treasury should be released from its embarrassments, and by which even I had to suffer a loss of a considerable amount, of some thousands of dollars; but I do accept the offer of the five thousand dollars in articles of the produce of the country for the troops, on account of the imperious necessity which I

have for them, in order to maintain them, for which purpose I send the schooner California, that you may have the goodness to load her with five hundred fanegas of maize, two hundred and fifty of frigol, two hundred arrobas of dried meat, and five hundred pairs of shoes, or the material for making them, which I am told it will not be difficult for you to send; and surmising also that it will not be very inconvenient for you, I earnestly request that you will send me two thousand dollars in silver, in consideration of the fact that the treasury of the department is short of funds, as it has not received anything since my arrival, there having been no arrivals of vessels; and besides this, the troops of my expedition are daily furnished with cash in hand, as they are subject to a mode of payment, administration and customs different from the presidial troops, as you know, in the same manner as the rest of the national army, and for which sum it will be exceedingly grateful.

All of which I communicate to you for your information, assuring you at the same time of my consideration and esteem.

God and Liberty. Angeles, March 16th, 1843.

MICHELTORENA.

To the military commandant of the line from Santa Juez to Sonoma, Colonel D. Guadalupe Vallejo.

Manuel Micheltorena, Governor, Commanding General and Inspector of both Californias.

[SEAL.]

Whereas, citizen Mariano Guadaulupe Vallejo, colonel of cavalry and military commandant of the territory of Sonoma, has, for his own personal benefit and that of his family, petitioned for the place known by the name of Suscol, bounded on the north by the land named Tulucay and Suisun, and south by the straits of Carquines, the proper measures and examinations being previously made as required by laws and regulations, using the powers conferred on me, in the name of the Mexican nation I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approbation of the most excellent departmental junta, and under the following conditions:

1st. The person interested shall afterwards apply to this government for the revalidation of the present title on paper of the proper stamp, presenting also the respective map, in order to be able to fix with accuracy the limits and the number of square leagues of which the aforesaid land consists.

2d. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it fully and exclusively, making such use or cultivation of it as may best suit him, but within one year he shall build a house on it, and it shall be inhabited.

3d. He shall request the proper magistrate to give him juridical possession in virtue of this title, by whom the boundaries shall be marked out, in the limits of which he shall place besides the bounds some fruit or forest trees of some utility.

4th. If he shall contravene these conditions he will lose his right to the land, and it will be subject to denouncement by another person.

In consequence, I order that this present serving him for a title, note be made of it in the corresponding book, and it be delivered to the person interested for his security and other purposes.

Given in the city of Los Angeles, on the fifteenth of March, eighteen hundred and forty-three.

MICHELTORENA.

FRANCISCO ARCE,
Secretary ad interim.

Note has been made of this title on folio 1.

ARCE.

Stamp First.—Eight Dollars.

Provisionally authorized by the maritime custom-hou port of Monterey, in the department of the Californias years eighteen hundred and forty-four and eighteen hun forty-five.

[SEAL.]

Manuel Micheltorena, Governor, Commanding General
spector of both Californias.

Whereas, citizen Mariano G. Vallejo, colonel of cavalry and military commandant of the frontier of Sonoma, has requested this government the purchase of the land known by the name of Suscol, in the jurisdiction of said frontier, bounded on the north side by the lands named Tulucay and Suisun, and on the east and south by the straits of Carquines, Ysla de la Yegua and estero de Napa, the proper measures and examinations being previously made, using the powers with which I am invested by the supreme government of the Mexican nation, I have sold to him the aforesaid land of Suscol for the sum of five thousand dollars, which this government has received to its satisfaction, declaring to him the ownership by these presents, in virtue of which he may occupy it and possess it freely and exclusively, making such use or cultivation of it as may best suit him, without any restriction.

Wherefore I order that this present serving him for a title, note be made of it in the respective book, and that it be recognised by all the authorities of the departments of the republic, delivering up to the person interested as private property purchased from the government of the department in proper and legal form.

have for them, in order to maintain them, for which purpose I send the schooner California, that you may have the goodness to load her with five hundred fanegas of maize, two hundred and fifty of frigol, two hundred arrobas of dried meat, and five hundred pairs of shoes, or the material for making them, which I am told it will not be difficult for you to send; and surmising also that it will not be very inconvenient for you, I earnestly request that you will send me two thousand dollars in silver, in consideration of the fact that the treasury of the department is short of funds, as it has not received anything since my arrival, there having been no arrivals of vessels; and besides this, the troops of my expedition are daily furnished with cash in hand, as they are subject to a mode of payment, administration and customs different from the presidial troops, as you know, in the same manner as the rest of the national army, and for which sum it will be exceedingly grateful.

All of which I communicate to you for your information, assuring you at the same time of my consideration and esteem.

God and Liberty. Angeles, March 16th, 1843.

MICHELTORENA.

To the military commandant of the line from Santa Juez to Sonoma, Colonel D. Guadalupe Vallejo.

Manuel Micheltorena, Governor, Commanding General and Inspector of both Californias.

[SEAL.]

Whereas, citizen Mariano Guadaulupe Vallejo, colonel of cavalry and military commandant of the territory of Sonoma, has, for his own personal benefit and that of his family, petitioned for the place known by the name of Suscol, bounded on the north by the land named Tulucay and Suisun, and south by the straits of Carquines, the proper measures and examinations being previously made as required by laws and regulations, using the powers conferred on me, in the name of the Mexican nation I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approbation of the most excellent departmental junta, and under the following conditions:

1st. The person interested shall afterwards apply to this government for the revalidation of the present title on paper of the proper stamp, presenting also the respective map, in order to be able to fix with accuracy the limits and the number of square leagues of which the aforesaid land consists.

2d. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it fully and exclusively, making such use or cultivation of it as may best suit him, but within one year he shall build a house on it, and it shall be inhabited.

3d. He shall request the proper magistrate to give him juridical possession in virtue of this title, by whom the boundaries shall be marked out, in the limits of which he shall place besides the bounds some fruit or forest trees of some utility.

4th. If he shall contravene these conditions he will lose his right to the land, and it will be subject to denouncement by another person.

In consequence, I order that this present serving him for a title, note be made of it in the corresponding book, and it be delivered to the person interested for his security and other purposes.

Given in the city of Los Angeles, on the fifteenth of March, eighteen hundred and forty-three.

MICHELTORENA.

Francisco Arce,
Secretary ad interim.

Note has been made of this title on folio 1.

ARCE.

Stamp First.—Eight Dollars.

Provisionally anthorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years eighteen hundred and forty-four and eighteen hundred and forty-five.

[SEAL.]

Manuel Micheltorena, Governor, Commanding General, and Inspector of both Californias.

Whereas, citizen Mariano G. Vallejo, colonel of cavalry and military commandant of the frontier of Sonoma, has requested this government the purchase of the land known by the name of Suscol, in the jurisdiction of said frontier, bounded on the north side by the lands named Tulucay and Suisun, and on the east and south by the straits of Carquines, Ysla de la Yegua and estero de Napa, the proper measures and examinations being previously made, using the powers with which I am invested by the supreme government of the Mexican nation, I have sold to him the aforesaid land of Suscol for the sum of five thousand dollars, which this government has received to its satisfaction, declaring to him the ownership by these presents, in virtue of which he may occupy it and possess it freely and exclusively, making such use or cultivation of it as may best suit him, without any restriction.

Wherefore I order that this present serving him for a title, note be made of it in the respective book, and that it be recognised by all the authorities of the departments of the republic, delivering up to the person interested as private property purchased from the government of the department in proper and legal form.

Given in Monterey on the nineteenth of June, one thousand eight hundred and forty-four.

MANUEL MICHELTORENA.

FRANCISCO ARCE,
Sec'y ad interim.

Note has been made of this title in the respective book.

ARCE.

Stamp First.—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Montery, in the department of the Californias, for the years eighteen hundred and forty-four and eighteen hundred and forty-five.

MICHELTORENA. PABLO DE LA GUERRA.

[SEAL.]

Pio Pico, Governor ad interim of the Department of Californias:

The most excellent departmental assembly in session of this day has decreed the following:

Approved, the grant made by the superior departmental government in the titles issued on the 15th of March, one thousand eight hundred and forty-three, and nineteenth of June, one thousand eight hundred and forty-four, in favor of citizen M. G. Vallejo, of the place known by the name of Suscol, in the jurisdiction of Sonoma, which land includes the island which is situated near the point in the middle of the straits of Carquines, and between the bays of San Pablo and Suisun, in payment of the sums of money which he furnished, and other supplies which the aforesaid Senor Vallejo made to the government and garrisons of the department, in entire conformity with the supreme orders of the general government of the nation, and for the security of the party, Don Mariano G. Vallejo, I thus make it known.

Given in the city of Los Angeles on the 26th day of September, 1845.

PIO PICO.

JOSE MA. COVARRUBIAS, *Sec'y.*
Filed in office July 17, 1852.

GEO. FISHER, *Sec'y.*

Espediente of Petaluma.

Jurisdiccion de Sonoma, 1843.

Espediente promovido por D. Mar'no G. Vallejo pretendido el parage de "Petaluma."

No. 306.

El S. Gobernador del departmento de California.

Mariano G. Vallejo, coron'l de caballeria ante V. E. como

1606

mejor convenga dice; que desde el ano de mil ochocientos treinta y cuatro se le concedio por el gobierno y posee actualam'te el parage de Petaluma que se confirmio; pr. la ex'ma dep'n territo'l pero habiendosele estraviado los titulos originales ocurrio a la secretaria del gobierno por el espediente con objecto de reformar los documentos dichos mas a q. accidente sucedio otro que fue el de haberse tambien estraviado el espediente original; cuasa por la cual remitio con nueva insta al gobo. departamental el diseno certificado que tenia en su poder el que suscribe a la vez que el pairs fue invadido por la escuadra Norte Americana y habiendose posesionado de esta capital cuyo en poder de los invasores el archivo como se publico. De este trastorno gen'l resulto que se estraviase de nuevo los documentos a que me refiero sin tener esperanza de volverlos a conseguir. Por las razones espuesta A. V. E. suplica se sirva mandar se le estienda y conforme el titulo correspond'te al terreno mencionado que es de estencion de diez citios de ganado mayor poco mas o'menos y va marcado en el diseno adjunto, el que prometo remitor exactamente delineado de sonoma luego que se levante su nuevo plano, juro, &c.

Monterey, Oct'be 22, de 1843.

M. G. VALLEJO.

MONTEREY, 21 *de Oct'be, de* 1843.

Ynfe. el S. s'rio del despacho de este supremo gob'o departamental.

MICHELT'A.

Ex'mo Senor Gobernador:

Desde el tiempo a que se refiere el S'or Vallejo tiene ocupado con sus bienes el terreno de Petaluma y por lo mismo entiendo de bersele dar el titulo que pide por habersele ya dado con anterioridad solo la disposicion de V. E.

MAN'L JIMENO.

MONTEREY, *Oct'be* 21, *de* 1843.

Conf'e al informado espidase el titulo con las condiciones de ley.

MICHELT'A.

MONTEREY, 22 *de O'bre, de* 1843.

Vista la peticion con queda principio este espediente el informe que antecede con todo lo demas que se tubo presente y ver convino de conformidad con las leyes y reglamentos de la materia declaro al Coronel D. Mariano G. Vallejo, dueno del parage nombrado Petaluma colindante al sur con el estero de Olompali, al N. y E. con el rio de Sonoma, Agua Caliente y Guilicos, y al S. con las lomas del Roblar de la Miseria siendo la estension de diez sitios de ganado mayor librese el correspondt'e despacho, tomese razon en el libro respectivo y dirijase este esped'te a la E. Junta pa. su aprovacion. El E. S. Gobernador asi lo mando decreto y firmo f. 1a del libro de este ano.

ANGELES, *Setiembre* 3, *de* 1845.

Dado cuenta en sesion de hoy con este espediente a la ex'ma asamblea departamental se mando pasar a la comision de terrenos valdios.

PIO PICO, *Presid'te.*

AGUSTIN OLVERA, *S'rio.*

Impuesta con bastante detenimiento la comision de terrenos baldios del esped'te promovido pr. el ciudadano Mariano G. Vallejo en pretencion del parage conocido con el nombre de Petaluma sitio contiguo a la poblacion de Sonoma; y convencido de q. las diligencias practicadas en dicho esped'te fueron bastante para que el superior gobierno del departamento le hubiese legalmente concedido el mencionado terreno presenta a la deliveracion de V. E. la siguiente proposicion.

Se aprueba la concesion hecha pr. el superior gobierno del departamento en titulo librado con f'ha 22 de Octubre, de 1843, en favor del ciudad'o Mariano G. Vallejo, de diez sitios de ganado mayor en el parage conocido con el nombre de Petaluma, contigua con la poblacion de Sonoma de entera conformidad con la ley de 18 de Agosto, de 1824, y el arto. 5, del reglamento de 21 de Nov'e de 1828.

Sala de comisiones en la ciudad de los Angeles, Setiembre 23, de 1845.

FRANC'O DE LA GUERRA.
NARCISCO BOTELLA.

ANGELES, *Setiembre* 26, de 1845.

En sesion de hoy se aprobo por la E. asamblea departamental la propisicion del dictamen que antecede; mandando se dernelva el espediente original al ex'mo s'or gobernador para los fines convinientes.

PIO PICO.

AGUSTIN OLVERA, *S'rio.*

En la f'ha se libro a la parte la copia respectiva.

OFFICE OF THE SURVEYOR GENERAL
OF THE U. S. FOR CALIFORNIA.

I. Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the seven preceding and here-

unto annexed pages of tracing paper, numbered from one to seven inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain papers now on file and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of [SEAL.] office,) at the city of San Francisco, this sixth day of February, 1852.

SAM'L D. KING,
Sur. Gen'l, Cala.

[*For map see original, between pages* 90 and 91.]

I, George Fisher, secretary to the board of the U. S. land commission for ascertaining and settling private land claims in the State of California, do hereby certify that the foregoing is a true and correct copy of a Spanish document authenticated by Sam'l D. King, esq., lately U. S. surveyor general for the said State of California, purporting to be an espediente filed in this office on the 31st day of May, 1852, in case No. 250 on the docket of the said board.

In testimony whereof, I have hereunto subscribed my name. Office of the secretary of said commission, San Francisco, State of California aforesaid, this 27th day of October, A. D. 1854.

GEO. FISHER, *Sec'y.*

Filed in office Oct. 27, 1854.

GEO. FISHER, *Sec'y.*

Translation of Espediente of Petaluma.

Stamp Third.—One Dollar.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year one thousand eight hundred and forty-three.

MANUEL CASTANARES.

MICHELTORENA.

[SEAL.]

To his Excellency the Governor of the Department of the Californias.

Mariano G. Vallejo, colonel of cavalry, before your excellency in the most favorable manner, says: That in the year one thousand eight hundred and thirty-four, there was granted to him by the government, and he now possesses the place of Petaluma which was confirmed by the most excellent territorial deputation, but the original titles having been mislaid, he applied to the office of the secretary of State for the espediente for the purpose of making out again said documents, but to that accident succeeded another, which was the loss of the original espediente, for which reason he (the subscriber) remitted to the departmental government the map which he had in his possession, with a new petition, at the time that the country was invaded by the North American squadron, and having taken possession of this capital, the archives, as is well known, fell into the power of the invaders. From this general confusion it resulted that the papers he refers were again lost, without hope of obtaining them again.

For the foregoing reasons he prays your excellency to have the goodness to order that the corresponding title be issued to him and confirmed for the land referred to, which is in extent ten square leagues, more or less, and is marked out on the annexed map which he promises to remit, accurately drawn, from Sonoma, so soon as the new survey can be made. He swears, &c.

M. G. VALLEJO.

MONTEREY, *Oct.* 21, 1843.

Let the secretary of State of this supreme departmental government report.

MICHELTORENA.

To his Excellency the Governor:

Since the time referred to by Senor Vallejo he has occupied with his property the land of Petaluma, and therefore, I think, the title to which he asks should be given him, it having been previously given to him. Saving your excellency's disposition.

Dated as above.

MANUEL JIMENO.

MONTEREY, *Oct.* 21, 1843.

In conformity with the report let the title be issued with the conditions of the law.

MICHELTORENA.

MONTEREY, *Oct.* 22, 1843.

Having seen the petition with which this espediente commences, the foregoing report, together with all the information which was borne in mind and deemed proper to be considered, in conformity with the laws and regulations in the matter, I declare Colonel Mariano G. Vallejo owner of the place named Petaluma, bounded on the south by the estero of Olompali, north and east by the river of Sonoma, Agua Caliente, and Guilicos, and on the west by the hills of the Roblar de la Miseria, its extent being ten square leagues. Let the corresponding title be issued, let note be made in the proper book, and folio 1 of the book for this year, and direct the espediente to the (most) excellent junta for its approval. His excellency the governor thus ordered, decreed, and signed.

ANGELES, *Sept.* 3, 1845.

This espediente having been this day reported to the most excellent departamental assembly, it was ordered to be passed to the committee on vacant lands.

PIO PICO, *President.*

AGUSTIN OLVERA, *Sec'y.*

MOST EXCELLENT SIR: The committe on vacant lands having carefully examined the espediente formed by citizen Mariano G. Vallejo, petitioning for the place known by the name of Petaluma, near to the town of Sonoma, and satisfied that the proceedings made in that espediente were sufficient (to authorize) the superior departmental government to have legally granted him the aforesaid land, presents to the deliberation of your excellency the following proposition:

"They approve the grant made by the superior departmental government in the title issued Oct. 22, 1843, in favor of citizen Mariano G. Vallejo, for ten square leagues of land in the place known by the name of Petaluma, near the town of Sonoma, in entire conformity with the law of Aug. 18, 1826, and art. 5 of the regulation of Nov. 21, 1828."

Hall of the committee, in the city of Los Angeles, September 23, 1843.

FRANCISCO DE LA GUERRA.
NARCISO BOTELLO.

ANGELES, *September* 25, 1845.

In session of this day, the proposition of the foregoing report was approved by the most excellent departmental assembly, ordering that the original espediente be returned to his excellency the governor, for the convenient uses.

PIO PICO.

AGUSTIN OLVERA, *Sec'y.*

On the same day, the proper copy was issued to the party.

Filed in office May 31, 1852.

GEO. FISHER, *Sec'y.*

Certified copy Exhibit R, to Deposition of Jose de la Rosa, in case 250.

Las comisiones de colonizacion y terrenos baldios a quien se paso el espediente cuya formacion provoco por pretencion el ciudadano Mariano G. Vallejo, el parage nombrado Petaluma, lo han examinado con la circumspeccion q. corresponde teniendose el mismo tiempo presente la ley de 18 de Agosto, de 1824, sus concordantes y disposiciones generales que en 24 de Noviembre, de 1828, dicto el supremo gobierno de la Union, para el mejor cumplimiento de la prim'a del escamen del espediente se ha penetrado la

comision de la opinion q. ya tenia de la escrupolosidad acierto y tino con que el Sr. geffe politico lo mando instruir de suerte que en su formacion se extravia algun requisito escencial ni de las practicadas.

Por lo dicho concluye la comision ofreciendo a la deliveracion de esta ex'ma dep'n la siguiente proposition.

1a. Se aprueba la concesion hecha al ciudad'o Mariano G. Vallejo, del parage nombrado Petaluma, concedido en 18 de Junio, de 1834, de entera conformidad con lo prevenido en la ley de 18 de Ag'to, de 1824, y el art'o 5, del reglamento de 21 de Nov'e de 1828.

Monterey, 21 de Junio, de 1834.

CARLOS ANT'O CARILLO,
JOSE A. ESTUDILLO,
JOSE CASTRO.

MONTEREY, 21 *de Junio, de* 1834.

En sesion de este dia aprovo la ex'ma diputacion la proposicion del dictamen antecedente, mandando se devuelva el esped'te al S'or geffe sup'r politico para fines consiguientes.

FIGUEROA.

JUAN B. ALVARADO, *Secret'o.*

MONTEREY, *Junio* 21, *de* 1834.

En vista del acuerdo de la ex'ma diputacion territorial del dia de hoy en confirmacion del terreno de Petaluma, pretendido por D. Mariano Guadalupe Vallejo, librese el titulo respectivo tomese razon en el libro a q. corresponde y entreguese al interesado para su resguardo y demas fines.

El S'or D. Jose Figueroa, g'l de brigada, com'te gen'l, inspector y geffe sup'r politico de la Alta California, asi lo mando, decreto y firmo de q. doy fe.

JOSE FIGUEROA.

[SELLO.]

Manuel Micheltorena, General de Brigada del Ejercito Mexicano, Ayundante General de la plana mayor del mismo, Gobernador, Command'te General e Inspector del Departamento de Californias.

Por cuanto el S'or Coronel D. Mariano G. Vallejo ha hecho presente a este gobierno en solicitud de 19 del corrt'e que a mas de los diez sitios de ganado mayor que tiene concedidos en el parage de Petaluma marcados y reconocidos desde el rio de Sonoma, hasta el estero de Olompali y posas de Cantua, resulta un sobrante de tierra incluidos en el disno original que existe en la secretaria de este gobierno cinco sitios y en consideracion a la sumas de dos mil pesos que ofrece de sus sueldos vencidos en el tiempo q. desempeno

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la comandancia gen'l de este departamento y por servicios prestados a la patria; practicados previamt'e las diligencias y averiguaciones concernt'es y de toda conformidad con la leyes de la materia he venido en concederle en propiedad por las presentes letras a nombre de la nacion Mejicana la mencionada cantidad de sitios que solicita en virtud de la autoridad con que me hallo investido y bajo las condiciones sigt'es.

1a. Podra cercarlo y dedicarlo al uso que mas le acomode sin perjudicar las travecias, caminos y servidumbres.

2a. El terreno de que se hace mencion no pasara de los linderos que han sido hasta aqui reconocidos por de Petaluma marcados en el titulo respectivo de dicho rancho en el cual se espicifican de una manera clara y positiva.

3a. El interesado otorgara el recibo correspondt'e a la cantidad de dos mil pesos a favor del erario nacional.

4a. El juez que le diere posecion de cicho terreno, lo hara medir conforme a ordenanza.

En consecuencia mando que teniendose el presente titulo pro firme y valedero, se tome razon en el libro que corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de Monterey, a los veinte y dos dias del mes de Junio, de mil ochocientos cuarenta y cuarto.

MAN'L MICHELTORENA.

Francisco Arce, *S'rio Int'o.*

Queda tomada razon de este despacho en el libro respectivo.

ARCE.

[SELLO.]

Pio Pico, Gobernador Interino del Departmento de las Californias:

La ex'ma asamblea departa'l en sesion de hoy ha acordado lo sig'te.

Se aprueba la concesion hecha por el sup'r gob'no del departamento en titulo unado con f'ha 22 del mes de Junio, del presente ano en favor del ciud'no Mariano G. Vallejo, de cinco sitios de ganado mayor por la suma de dos mil pesos y servicios prestados a la patria, cuyo terreno se halla en la comprencion de Petaluma, contiguo a la poblacion de Sonoma, de entera conformidad con la ley de 18 de Agosto, de 1824, y el art'o 5, del reglamento de 21 de Noviembre, de 1828.

Y para resguardo de la parte interesada lo hago asi saber.

Dado en la ciudad de los Angeles, a doce de Setiembre, de mil ochocientos cuarenta y cinco.

PIO PICO.

Jose Ma. Covarrubias, *S'rio.*

[SELLO.]

Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayundante General de la plana mayor des mismo, Gobernador, Comandante e Inspector del Departamento de Californias.

Por cuanto el Coronel D. Mariano G. Vallejo, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Petaluma colind'te al S. con el estero de Olompali, al N. y E. con el rio de Sonoma, Agua Caliente y Guilicos, y al S. con las lomitas del Roblar de la Miseria, practicados previamente las diligencias y averiguaciones consernientes segun lo despuerto por leyes y reglam'tos, usando de las facultades que me son conferidas a nombre de la nacion Mejicana he venido en concederle el terreno mencionada, declarandole la propiedad de el por las presentes letras sujetandose a la aprovacion de la ex'ma junta departamental y bajo las condiciones siguientes.

4a. Podra cercarlo sin perjudicar las travecias, caminos y servidumbres lo disfrutara libre y esclusivamente destinandolo al uso o cultivo que mas le acomode.

2a. Solicitara del juez respectivo que le de la posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondra a mas de las majoneras algunos arboles, frutales o silvestres de alguna utilidad.

3a. El terreno de que se hace donacion es de diez sitios de ganado mayor poco mas o menos segun explica el diceno que corre agregado al espediente respectivo. El juez que diere la posecion lo hara medir conforme a ordenanza quedando el sobrante que resulta a la nacion para los usos convinientes.

4a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, a veinte y dos de Octubre, de mil ochocientos cuarenta y tres.

MAN'L MICHELTORENA.

MANUEL JIMENO, *S'rio.*

Queda tomada razon de este despacho en el libro respectivo a fo. 1a del libro seg'do.

JIMENO.

Pio Pico, Gobernador Interino del Departamento de las Californias:

La ex'ma asamblea departamental en sesion de hoy ha acordado lo siguiente se aprueba la concesion echa por el superior gobierno del departamental en titulo librado con f'ha 22 de Octubre de 1843, en favor del ciudadano Mariano G. Vallejo, de diez sitios de

ganado mayor en el parage conocido con el nombre de Petaluma contigno con la poblacion de Sonoma, de entera conformidad con la ley de 18 de Agosto de 1824, y el articulo 5o del reglamento de 21 de Noviembre, de 1828. Y para resguardo de la parte de D. Mariano G. Vallejo lo hago asi saber. Dado en la ciudad de los Angeles en este papel comun por falta del sellado a veinte seis de Setiembre de mil ochocientos cuarenta y cinco.

PIO PICO.

JOSE MA. COVARRUBIAS, *S'rio.*

I, George Fisher, secretary to the board of the U. S. land commission for the ascertaining and settling private land claims in the State of California, do hereby certify that the foregoing is a true and correct copy of a Spanish document exhibited and filed on the 2d day of June, 1852, in case No. 250 on the docket of the said board, now on file in this office.

In testimony whereof, I have hereunto subscribed my name, office of the Secretary of said commission, San Francisco, State of California aforesaid, this 27th day of October, A. D. 1854.

GEO. FISHER, *Sec'y.*

Filed in office Oct. 28, 1854.

GEO. FISHER, *Sec'y.*

Translation of Exhibit R.

The committee on colonization and vacant lands, to which was referred the espediente formed upon the petition of citizen Mariano G. Vallejo for the place named Petaluma, have examined it with due circumspection, having before them at the same time the law of the 18th of August, 1824, its concordants, and the general dispositions adopted by the supreme government of the nation on the 28th November, 1828, for the better fulfilment of the former.

From the examination of the espediente, the committee are impressed with the which they already entertained of the scrupulousness, prudence, and judgment with which his excellency the political chief sent it for information, in order that none of the essential requisites, nor the proceedings had, should be omitted in the formation thereof.

Wherefore the committee concludes, proposing for the consideration of this most excellent deputation, the following proposition:

1st. The grant made to citizen Mariano G. Vallejo of the place named Petaluma, made on the 18th of June, 1834, in entire conformity with the provisions of the law of the 18th of August, 1824, and article 5th of the regulations of November 21, 1828, is approved.

Monterey, June 21, 1834.

CARLOS ANTONIO CARILLO,
JOSE A. ESTUDILLO,
JOSE CASTRO.

MONTEREY, *June* 21, 1834.

In the session of to-day the most excellent deputation approved the proposition of the foregoing report, and the espediente to be returned to his excellency the superior political chief for suitable purposes.

FIGUEROA.

JUAN B. ALVARADO, *Sec'y.*

Seal Third.—Two Reales.

Provisionally authorized by the administration of the maritime custom-house at Monterey, for the years 1833 and 1834.

JOSE RAFAEL GONZALES.

FIGUEROA.

MONTEREY, *June* 21, 1843.

In view of the resolution adopted by the most excellent territorial deputation on the day of this date, in confirmation of the land of Petaluma, solicited by Don Mariano G. Vallejo, let the proper title issue, and be entered in the proper book, and delivered to the party interested for his security and other purposes.

His excellency, Don Jose Figueroa, general of brigade, commanding general, inspector, and superior political chief of Upper California, thus ordered, decreed and signed, whereof I certify.

JOSE FIGUEROA.

Stamp First.—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years one thousand eight hundred and forty-four and one thousand eight hundred and forty-five.

PABLO DE LA GUERRA.

MICHELTORENA.

[SEAL.]

Manuel Micheltorena, General of Brigade of the Mexican Army, Adjutant General of the staff of the same, Governor, Commanding General and Inspector of the Department of Californias:

Whereas Colonel Don Mariano G. Vallejo has made representation to the government, in petition of the 19th inst., that besides the ten square leagues which has been granted to him in the place of Petaluma, marked out and recognized from the river of Sonoma to the estero of Olompali and Pozas de Cantua, there proves to be a surplus of five square leagues of land included in the original map which exists in the office of the secretary of this government, and in consideration of the sum of two thousand dollars, which he offers from his salary, which became due him at the time he discharged the duties of commanding general of the department, and for services rendered to the country, the proper measures and examinations being previously made, and in entire conformity with the laws on the matter, I have determined to grant to him in fee, by these present letters, in the name of the Mexican nation, the aforesaid number of square leagues which he requests, in virtue of the authority vested in me, and under the following conditions:

1st. He may enclose it, and dedicate it to the use which may best suit him, without prejudice to the crossings, roads, and servitudes.

2d. The land of which mention is made shall not pass the boundaries which have up to this time been recognized as those of Petaluma, mentioned in the respective title of said rancho, in which they are described in a distinct and positive manner.

3d. The person interested will execute the receipt, comprehending to the amount of two thousand dollars, in favor of the national treasury.

4th. The magistrate who may give the possession of said land will cause it to be measured in conformity with the ordinance.

In consequence I order, that the present title being held as firm and valid, note be made of it in the book to which it belongs, and it be delivered to the interested party for his security and other purposes.

Given in the city of Monterey, on the 22d day of the month of June, one thousand eight hundred and forty-four.

MANUEL MICHELTORENA.

FRANCISCO ARCE, *Secretary ad Interim.*

Note has been made of this title in the proper book.

ARCE.

Stamp Second.—Four Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

MICHELTORENA. PABLO DE LA GUERRA.

[SEAL.]

Pio Pico, Governor ad Interim of the Department of the Californias:

The most excellent departmental assembly, in session this day, has decreed the following:

"Approved, the grant made by the superior government of the department in the title issued with date the 22d of the month of June, of the present year, in favor of citizen Mariano G. Vallejo, of five square leagues, for the sum of two thousand dollars and services rendered to the country, which land is included in Petaluma, near the town of Sonoma, in entire conformity with the law of August 18, 1824, and article 5th of the regulations of Nov. 21, 1828."

And, for the security of the party interested, I thus make it known.

Given in the city of Los Angeles, on the 12th of September, eighteen hundred and forty-five.

PIO PICO.

JOSE MA. COVARRUBIAS, *Secretary.*

Stamp First.—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year one thousand eight hundred and forty-three.

MANUEL CASTANARES.

MICHELTORENA.

[SEAL.]

Manuel Micheltorena, General of Brigade of the Mexican army, Adjutant General of the staff of the same, Commanding General and Inspector of the Department of the Californias.

Wherefore Colonel Don Mariano G. Vallejo has for his own personal benefit and that of his family petitioned for the land known by the name of Petaluma, bounded on the south by the estero of Olompali, north and east by the river of Sonoma, Agua Caliente, and Guilicos, and west by the hills of the Roblar de la Miseria, the proper measures and examinations being previously taken, as required by laws and regulations, using the powers conferred on me, in the name of the Mexican nation I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approval of the most excellent departmental junta, and under the following regulations, viz:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it freely and exclusively, making such use of it or cultivation as may best suit him.

2d. He shall request the proper magistrate to give him judicial possession in virtue of this title, by whom the boundaries will be marked out, in the limits of which, besides the land marks, he shall place some fruit or forest trees of a useful character.

3d. The land of which donation is made is ten square leagues, a little more or less, as shown by the map which goes attached to the respective espediente. The magistrate who may give the possession will cause it to be measured in conformation with the ordinance, leaving to the nation for its convenient use the surplus which may result.

4th. If he shall contravene these conditions he will lose his right to the land, and it will be subject to denouncement by another.

In consequence, I order that the present serving him as a title, and being held as firm and valid, note be made of it in the proper book, and it be delivered to the person interested for his security and other purposes.

Given in Monterey, on the twenty-second of October, one thousand eight hundred and forty-three.

MANUEL MICHELTORENA.

MANUEL JIMENO, *Secretary.*

Note has been made of this title in the respective book, on folio 1 of book second.

JIMENO.

Pio Pico, governor ad interim of the department of the Californias.

The most excellent departmental assembly, in session of this day, has decreed as follows:

"Approved, the grant made by the superior government of the department in the title issued on the 22d of October, 1843, in favor of citizen Mariano G. Vallejo, of ten square leagues, in the place known by the name of Petaluma, next to the town of Sonoma, in entire conformity with the law of August 18, 1824, and article 5th of the regulation of November 21, 1828."

And for the security of the party, Don Mariana G. Vallejo, I thus make it known.

Given in the city of Los Angeles, on this common paper, for want of stamped, on the twenty-sixth of September, one thousand eight hundred and forty-three.

PIO PICO.

JOSE MA. COVARRUBIAS, *Secretary.*

Filed in office May 31, 1852.

GEO. FISHER, *Sec'y.*

Opinion of the Board.

M. G. VALLEJO AND ASSIGNS
v.
THE UNITED STATES.
} No. 291.

For a place called Suscol, situated in the co. of .

Authenticated documents and the proofs in this case present the following facts for the consideration of the board: That Vallejo made application to purchase the tract of land called Suscol in the year 1843, and made two propositions for the consideration of the governor: the first, to receive the grant in full consideration for back pay which was due to him for military services; secondly, to pay to the government the sum of five thousand dollars.

The latter proposition was accepted on the part of Governor Micheltorena, and thereupon the said governor issued a grant to the said Vallejo on the 16th day of March, 1843, to serve him as a title until the same could be surveyed and the amount ascertained, and a map presented representing the same; and an order was sent to Vallejo for two thousand dollars in money, and the balance in supplies for the army, and Captain Cooper was despatched with a vessel to receive the supplies, and he testifies that he did receive a vessel load of supplies from Vallejo in pursuance of, and of the kind specified in the said order.

On the 19th day of June, 1844, Governor Micheltorena issued a final grant for the place, and for the whole of the land within its boundaries, irrespective of the amount it should be found to contain, and in which grant he acknowledges that the five thousand dollars had been received by the government.

The proof of occupancy and cultivation required by the colonization laws is abundant and beyond doubt, and on the 26th day of September, 1845, the proceedings received the full approval of the departmental assembly, and the only question of doubt is that of quantity, which question has been settled by the board in case No.   , where a grant has been issued for a consideration, and a stipulated price paid for the land; and also recognized in case number 250, Vallejo v. The United States, reported as of to-day's proceedings of this board.

We think this case entitled to a confirmation, and a decree will be entered accordingly. Confirmed.

Filed in office May 22, 1855.

GEO. FISHER, *Secretary.*

Recorded in Record of Decisions, vol. 2, p. 699.

GEO. FISHER, *Secretary.*

Decree of Confirmation.

M. G. VALLEJO AND ASSIGNS
vs.
THE UNITED STATES.
} No. 291.

In this case, after hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is valid, and it is therefore decreed that their application for a confirmation thereof be allowed.

The land of which confirmation is hereby given is situated in the county of   , and called Suscol, and bounded as follows, to wit: On the north by lands named Tulucay and Suisun, and on the east and south by the straits of Carquines and estero de Napa; reference being had to the grant and map, and the deposition of O'Farrell, on file in this cause.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office May 22, 1855.

GEO. FISHER, *Sec'y.*

Recorded in Record of Decisions, vol. 2, p. 700.

GEO. FISHER, *Sec'y.*

1419

Order.

And it appearing to the satisfaction of the board that the lands hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings, and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the Secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing eighty-six pages, numbered from 1 to 86, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office in case No. 291 on the docket of the said board, in which M. G. Vallejo and Assigns are the claimants against the United States for the place known by the name of "Soscol."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this eighth day of November, A. D. one thousand eight hundred and fifty-five, and of the independence of the United States of America the eightieth.

[SEAL.]

GEORGE FISHER, *Secretary.*

Endorsed: Filed November 7th, 1855.

J. A. MONROE, *Clerk.*

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL
OF THE UNITED STATES.

WASHINGTON, 31 *Dec.*, 1855.

291.—"Suscol."—M. G. Vallejo's Assigns Claimants.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 3d day of December, 1855, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Endorsed: Filed February 1, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Petition on Appeal.

To the Honorable District Court of the United States in and for the Northern district of California:

THE UNITED STATES, Appellants,
vs.
MARIANO G. VALLEJO AND ASSIGNS.
No. 291.

The petition of the United States, by their attorney, represents: That this cause is an application for a review of the decision of the board of commissioners, whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case; that a transcript of the said records was filed in this court on the 7th day of November, 1855; that a notice of appeal was filed on the day of , and that the land claimed lies in the said district; that the said claim is invalid. Wherefore appellants pray that the said decision of the board be reversed, and that this court decree the said title to be invalid.

Respectfully, &c.,
S. W. INGE,
U. S. Dist. Att'y.

Endorsed: Filed February 15th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Answer.

No. 318.—U. S. Dist. Court.

MARIANO G. VALLEJO et al., Resp's,
ads.
THE UNITED STATES, App't.

Mariano G. Vallejo and others, the claimants in the above case, in answer to the petition therein filed, avers and says that their title to the land therein claimed is valid.

They therefore pray that the decision of the board of land commissioners be affirmed, and the title of the said claimant decreed to be valid.

B. S. BROOKS,
Att'y for Resp's.

Endorsed: Filed February 15th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

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Deposition of Jose R. Mesa.

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN FRANCISCO, *March* 14, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Jose Ramon Mesa, a witness produced on behalf of the United States in case No. 318, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 281 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by D. Clinton Palmer, a sworn interpreter.

Present, B. S. Brooks, att'y for claimants; U. S. dist. att'y.

Questions by U. S. Dist. Att'y.

Ques. Your name, age, and occupation?

Ans. Jose Ramon Mesa; 32; in San Rafael, in Marin county. I am a ranchero; I have lived in Sonoma, and around there ever since I was 15 years old. I know M. G. Vallejo; I have known him ever since I was 15 years old. I am acquainted with the Suscol rancho. I have lived in the house of Don Salvador Vallejo ever since I have been a man; his house was about 40 yards from M. G. Vallejo's house, in Sonoma; I mean I lived there about 17 years. At the age of 15 Don Mariano G. Vallejo took me as a soldier in the presidio of San Francisco de Assis; I was stationed at the presidio about a year; I was young at the time, and do not recollect very well; I served as a soldier about 12 years; I was stationed at the mission the rest of the time. I knew Governor Micheltorena; I have had conversations with Micheltorena, but not upon the subject of the Suscol grant.

I was discharged as a soldier at the time that Micheltorena came to this country; at that time the Mexican government occupied the Suscol ranch for the troops; at that time they also had 4 soldiers and a corporal stationed on the ranch; they were to take care of the interests and property of the government; when the United States took possession of this country, they were there still. I don't know how much they were paid, or whether they were paid anything or not. At first the stock was in charge of the padres; it was a mission; then the administradores of the Mexican government took charge of the stock; then all the stock was the property of the government; after that the military succeeded to the administradores in the charge of the stock.

The military authorities had charge of the place when the United States took possession of California. I have known Gen'l Vallejo to take stock off the ranch and sell it, both before and after the Americans came here. I believe that Vallejo sold all he took off. The ranch was under the supervision of Gen'l Vallejo until the Americans came to this country; it was recognized as being under his control even after the Americans came here.

Cross-examination.

I was mayor domo on the ranch of Don Salvador Vallejo, which was near that of Mariano G. Vallejo, and I used to go there very often. The last time I saw the soldiers on the Suscol ranch was when Gen'l Micheltorena was there, and at the time they drove him out of the country. After Micheltorena left the country Vallejo had vaqueros and cattle on the ranch.

his
JOSE RAMON ⋈ MESA.
mark.

Subscribed and sworn to before me, this 14 March, 1857.
CUTLER McALLISTER, *U. S. Com'r.*

Deposition of Ig'o. Pacheco.

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN FRANCISCO, *March* 14, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Ignacio Pacheco, a witness produced on behalf of the United States in case No. 318, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 291 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by D. Clinton Palmer, a sworn interpreter.

Present, B. S. Brooks, att'y for claimant; U. S. dist. att'y.

Questions by U. S. Dist. Att'y.

Ques. Your name, age, residence and occupation?

Ans. Ignacio Pacheco; 49; San Rafael; ranchero.

I know Mariano G. Vallejo; I have known him ever since the year 1831; Vallejo was at that time an ensign, and I was a private soldier under his command. I know the Suscol ranch; the Mexican government occupied that ranch at the time the Americans took possession of California. I never conversed with Vallejo about his title to that ranch.

I have never heard of his claiming the Suscol ranch; Vallejo never occupied the ranch; he never was there; it was occupied by soldiers of the government; It was never occupied by Vallejo. I don't know how long after the Americans came here, that the government abandoned it.

Cross-examination.

In 1846, I think, was the last time I saw soldiers at the ranch, when the Americans took possession of the country; there were soldiers there when Micheltorena died; they were dragoons. Ignacio Miramantes, was the last officer in the immediate command of the post; he is living somewhere on the coast.

At the time I was discharged in 1837, Micheltorena was already dead.

It was Figueroa who died before 1837, not Micheltorena; 1839 is the last time I saw soldiers at the ranch: Alvarado was governor, I think, at the last time I saw soldiers there. The last time I saw soldiers was about the time the Americans took possession of the country.

YGN'O PACHECO.

Sworn to and subscribed before me, March 14, 1857.

CUTLER McALLISTER, *U. S. Com'r.*

Deposition of Jose F. Westgate.

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN FRANCISCO, *March* 14, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Jose Francisco Westgate, a witness produced on behalf of the United States in case No. 318, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 291 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, B. S. Brooks, att'y for claimant, and U. S. dist. att'y.

Questions by U. S. Dist. Att'y.

Ques. Your name, age, and place of residence, and occupation?

Ans. Jose Francisco Westgate; 62; I reside in Marin county, and am a gunsmith; I have lived in this State 27 years; I am acquainted with M. G. Vallejo; I married a niece of his; I have known him ever since I have been in this county; I know the Suscol ranch; in 1834 I owned a ranch adjoining his; he took it from me. At the time I first knew it, it belonged to the mission of Sonoma; Gen'l Figueroa died in Monterey, then the Californians revolted and took possession of the mission, and appointed a governor of their own, Baptiste Alvarado, I think it was. After the Californians took possession of the missions, the Suscol was taken as public property; I was at that time a gunsmith under the command of Vallejo, and remained in that situation until the Americans took the country. I drew a bullock every month, and when I went to Vallejo in the month of May, 1846, to draw my bullock, he sent me to the Suscol ranch to get the bullock. Ignacio Miramantes was the sergeant in command of the Suscol ranch at the time. I didn't get the bullock, as he was not at home; I never got it.

Ques. Why did Vallejo send you to the Suscol ranch to get the Bullock?

(Odjected to.)

Ans. Because it was a government ranch, and every married man in the service of the government who boarded out of the barracks, was entitled to a whole bullock a month, unmarried men to half a bullock each. I was a married man at that time.

At the time the Americans took possession of the country, the soldiers were stationed there, and remained there a few days after. When they absconded, Lt. Revere, of the American forces, took cattle and horses from the ranch, as belonging to the government; Meramantes, who was in command at the time of the soldiers of the Suscol ranch, is here now; he lives somewhere near the mission; Charley Brown knows him.

I never knew he had any more claim to the ranch than as a general in the army; I never heard of his claiming the ranch as his own property until 1852.

I know Jose de la Rosa, he lives in Sonoma; I know his reputation, it is bad; from what I know of his reputation for truth and veracity, I would not believe him under oath.

I know Salvado Vallejo; I know his reputation for truth and veracity; I would take his word anywhere; I never knew anything against his reputation for truth and veracity.

Cross-examination.

I have resided at Tomales ever since 1852; it is on the sea coast; it is about 25 miles from Sonoma; previous to that I have resided in Sonoma, Petaluma, and Bahea Bolenas, or Bolenas Bay.

JOSE FRAN'CO WESTGATE.

Sworn to and subscribed before me, this 14th March, 1857.

CUTLER McALLISTER.
U. S. Comr.

Deposition of Wm. Watson.

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN FRANCISCO, *March* 14, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northen district of California, duly authorized to administer oaths, &c., &c., came William Watson, a witness produced on behalf of the United States in case No. 318, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 291 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, B. S. Brooks atty. for claimants; U. S. dist. atty.

Questions by U. S. Dist. Atty.

My name is William Watson; I am 37 years of age; I reside in Napa county; I have lived in this State since 1845; I am a house carpenter; I know the Suscol ranch some little; I have known M. G. Vallejo intimately since 1847; I did not know the ranch until November or December, 1846; I have conversed with Vallejo about his title in the month of June, 1847; I spoke to him about purchasing from him a tract of land known as the Sulpher spring valley, on the Suscol ranch, for some carpenter's work I was to do for him; we could not trade; he refused to give me a warranty deed, but offered to give me a quit-claim deed with a warranty against himself and heirs; he gave me no definite reason for refusing a warranty deed. In the spring afterwards, in 1848, I offered to purchase that tract where the Suscol ferry is now, he would not sell it to me because he said there was a doubt about his title, he had purchased it from the indians; he told me he thought the American government would swindle him out of it; I requested of him a refunding deed and he would not give it to me; he afterwards told me there would be no difficulty as he had two Americans on his side to assist him to defend his claim before the United States. This conversation took place April 13, 1848; I opened store that day in Napa city; he said he bought his title of the Suscol Indians; he said he traded for it with Capitan , who was at that time head of that tribe. I made inquiries at that time about the title of certain Spaniards who were in possession of the ranch, they told me that Governor Vallejo had nothing to do with it, it was under the control of the padres, and that they were in charge for the padres.

The Spaniards I found in possession were Juan Salissa and Quincho Salisso.

I know Salvador Vallejo; I would not take his word under oath. I know his general reputation; it is bad.

I know José de la Rosa, of Sonoma; I am some little acquainted with his general reputation; it is very bad.

WM. WATSON.

Sworn to and subscribed before me, this 14 March, 1857.

CUTLER McALLISTER,
U. S. Com'r.

Deposition of Chas. Hopper.

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN FRANCISCO, *March* 14, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Charles Hopper, a witness produced on behalf of the United States in case No. 318, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 291 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, B. S. Brooks, att'y for claimant, and U. S. dist. att'y.

Questions by U. S. Dist. Att'y.

Charles Hopper; I am about 57 years old; I am a farmer; I live just 10 miles above Napa city; I have lived in this State since 1847; I am acquainted with M. G. Vallejo; I have been over the Suscol ranch two or three times.

I know Salvador Vallejo. I suppose I know his reputation for truth and veracity; it is not very good. If it was a matter from which he would derive great advantages, I would not believe him under oath.

his
CHARLES ⋈ HOPPER.
mark.

Sworn to and subscribed before me, this 14 March, 1857.
CUTLER McALLISTER,
U. S. Com'r.

Deposition of J. W. Whitton,

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN ERANCISCO, *March* 14, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came J. W. Whitton, a witness produced on behalf of the United States in case No. 318, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 291 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, B. S. Brooks, att'y for claimants, and U. S. dist. att'y.

Questions by U. S. Dist. Att'y.

J. W. Whitton; 42 years of age; I reside in Napa valley; I am a farmer.

I know Salvador Vallejo; I have known him since June, 1846; I expect I know his general reputation for truth and veracity; it is bad; I would not believe him under oath.

J. W. WHITTON.

Subscribed and sworn to before me, March 14, 1857.

CUTLER McALLISTER,
U. S. Com'r.

Endorsed: Filed March 16th, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of Vincent Geleich.

U. S. District Court, Northern District of Cal'a.

THE UNITED STATES, App't,
v.
MARIANO G. VALLEJO AND ASSIGNS, Resp't.

NORTHERN DISTRICT OF CALIFORNIA,
City of San Francisco, ss.

Vincent Geleich, of the said city, doctor of medicine, being duly sworn, deposes and says, that he knows José Santos Berreyesa, and for some time occupied the same room with him in this city, during which time the said Berreyesa had frequent interviews with squatters on the Suscol ranch, and negotiations concerning his giving testimony in this case to defeat the grant, and in such interviews deponent frequently acted as interpreter between the parties. The subject of such negotiations was the price to be paid for the said testimony. The said Berreyesa offered to testify against the said grant for the sum of two hundred dollars, and the said squatters said it was impossible to raise so much, but they promised to go to Benicia and see how much they could raise. And the said Berreyesa further said to this deponent, that he, Berreyesa, was the mortal enemy of M. G. Vallejo, and would do everything in his power to injure him.

V. GELEICH.

Sworn to before me, this 21st day of Dec., 1857.

F. J. THIBAULT, [SEAL.]
Notary Public.

Endorsed: Filed December 22d, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Affidavit of Thos. O. Larkin.

U. S. District District Court, Northern District of California.

THE UNITED STATES, App't,
v.
MARIANO G. VALLEJO AND ASSIGNS.

NORTHERN DISTRICT OF CALIFORNIA,
City and County of San Francisco, ss.

Thomas O. Larkin, of said city, being duly sworn, deposes and says, that he has resided in California for more than twenty years past, and was the United States consul at Monterey during the administration of Governor Micheltorena, and up to the time of the change of government, and in his official character, and otherwise, has corresponded with said Micheltorena very frequently; was personally and intimately acquainted with him; frequently saw him write, and knows his handwriting. And deponent says, that he has examined the original documents on file in this cause, and has examined two signatures thereto, and has compared the signatures of Micheltorena thereon written with various signatures of said Micheltorena to letters received by deponent from him during their correspondence; and deponent says, that he verily believes the said signatures of Micheltorena to be genuine. Deponent further says, that he is familiar with the handwriting of Francisco Arce; has often seen him write; has documents now in his possession written by said Arce, and to which his genuine signatures are attached; and deponent has examined the signatures of said Arce, where they appear upon said original title-papers, and carefully compared them with that in his possession of undoubted authenticity; and deponent says, that he has no doubt of the genuineness of the signatures of Arce wherever they appear on said papers. Deponent further says, that he knew of the grant to General Vallejo of the Suscol at or about the date of the grant; that the transaction was well known among those who were in communication with the government. Deponent further says, that the government of Micheltorena was often in great distress for funds and supplies. The treasury was at times empty, his army unpaid, his resourses embarrassed, and the country in a very disturbed state. Deponent knows that the goleta California was in the employ of the Mexican government, and that Capt. Jno. Cooper was in command of her at that time; and that she went to Sonoma or Petaluma for supplies to be furnished by Gen. Vallejo to the government, and knows that she returned with them. Deponent further says, that after that time, the title of General Vallejo to the Suscol rancho was well known and recognized among the leading men of the country, and he never heard it questioned during the Mexican administration.

THOMAS O. LARKIN.

Subscribed and sworn to before me, this 19th day of December, A. D. 1857.

F. J. THIBAULT, [SEAL.]
Notary Public.

Endorsed: Filed December 22d, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Affidavit of M. Castro.

U. S. District Court, Northern District of Cal'a.

UNITED STATES, App't,
vs.
MARIANO G. VALLEJO and ASSIGNS, Resp's.

NORTHERN DISTRICT OF CALIFORNIA,
City of San Francisco, ss.

Manuel Castro, being duly sworn, deposes and says, he is a native of California, and has lived all his life in California or Mexico, and held various offices under the Mexican government. In 1843, deponent was secretary of the prefecture of the district of Monterey, and as such had frequent official communications with both Gov. Micheltorena and Francisco Arce; has seen them both write, and knows their handwriting; deponent has examined the original documents filed in this case, purporting to be signed by Micheltorena and Arce, and their names wherever they appear as signatures upon said documents, are, as deponent believes, in their genuine handwriting.

Deponent resided during 1843 and 1844 in Monterey; deponent knows the handwriting of Rafael Sanches, having frequently seen him write. The body of the letter from Gov. Micheltorena to Gen'l Vallejo is in said Sanches' handwriting. The body of the titulo which accompanies it is in Arce's handwriting. Deponent has carefully examined the signatures to all the documents, and, to the best of his knowledge and belief, they are genuine. Deponent further says, that he was aware of the transaction at the time it took place, from common rumor at Monterey. He heard before the departure of Cap't Cooper in the goleta California for the supplies, that General Vallejo had purchased the rancho Suscol from the government, and that he was to pay for it in supplies. The voyage of Cap't Cooper to Sonoma, and its object was commonly talked of. Deponent knows that Cap't Cooper did, at that time, in the goleta California to Sonoma to bring these supplies, and that he did receive them and deliver them to the government at

Monterey. Deponent saw the supplies at Monterey, and particularly remembers the grain which was deposited in the "casa del gobierno." Deponent frequently heard the governor, officials and employees, and the officers of government speak of the title of concession at the time. It was a sale of the ranch. The government at the time stood in great need of these supplies. The troops were unpaid and discontented, the treasury always much exhausted, the income insufficient to meet the expenses, the officers of government themselves unpaid. Deponent further says, that Francisco Arce was lately in the city; he at first put up at a restaurant in Commercial street, and went from thence to the Commercial Hotel; he made no concealment whatever of his being here, visiting this court, and wherever his business called him without any restraint. He came in a public stage to give his testimony in the Ramero case, and for other business of his own, remained here almost a week, until he had finished business, and went away in a public stage.

MANUEL CASTRO.

Subscribed and sworn before me, this 19th Dec., 1857.
[SEAL.] P. K. WOODSIDE,
Notary Public.

Endorsed: Filed December 22d, 1857.
JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Affidavit of Thos. O. Larkin.

U. S. District Court, Northern District of Cal'a.

THE UNITED STATES, App't,
vs.
MARIANO G. VALLEJO, &c., Resp't.

CITY OF SAN FRANCISCO,
Northern District of California, ss.

Thomas O. Larkin, being duly sworn, deposes and says, that since making his affidavit of the 19th instant, he has examined the original memorandum or "razon" in the archives containing the substance of the letter from Micheltorena to Gen. Vallejo, the original whereof is filed in this case, and has compared said memorandum with authentic documents in his possession in the handwriting of Francisco Arce, and deponent says that he has no hesitation in saying that said memorandum is entirely in the handwriting of the said Francisco Arce.

THOMAS O. LARKIN.

Sworn to before me, this 21st day of Dec'r, 1857.
[SEAL.] P. K. WOODSIDE,
Notary Public.

Endorsed: Filed December 22d, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Notice of Motion.

In Dist. Court for the Northern Dist. of California.

UNITED STATES
vs. } No. 291.
M. G. VALLEJO.

SIR: Please take notice that a motion will be made before the hon. dist. court for the northern dist. of California, at the courtroom, in the city of San Francisco, on Wednesday, the 23d day of Dec., A. D. 1857, at 11 o'clock of that day, or as soon thereafter as counsel can be heard, for an order to open said cause for the purpose of receiving additional testimony in behalf of the United States, and that such motion will be founded on the affidavit of Jose S. Berreyesa and C. M. Chamberlain, copies of which are herewith served.

Dated San Francisco, Dec. 18th, 1857.

Y'rs &c., P. DELLA TORRE,
U. S. Att'y.

To B. S. BROOKS, Esq.,
Att'y for Claimants.

I hereby admit service of copies of the within affidavits, and notice of motion, this 18th day of Dec., A. D. 1857.

BROOKS,
Att'y for Pl't.

Affidavit of Jose S. Berreyesa in support of Motion.

U. S. District Court, Northern District of California.

M. G. VALLEJO
vs.
THE UNITED STATES.

STATE OF CALIFORNIA,
County of San Francisco, ss.

Jose Berreyesa, being duly sworn, doth depose and say, that he resides at Martinez, Contra Costa county, California; that he knows Francisco Arce, formerly, and now a resident of said State, and is well acquainted with his handwriting; that he has often seen him write and sign his name to papers and documents; that he has closely examined the paper purporting to be a grant on file in this cause, and on which the said M. G. Vallejo predicates a claim to a ranch known as the Suscol ranch in the State, and the name of said Arce subscribed thereto, and that he verily believes that the same is not the handwriting of the said Arce, nor his signature; and further says, that he believes various credible persons of character and veracity can be produced, who are acquainted with the handwriting of the said Arce, to prove that said signature is not genuine, and further says not.

JOSE S. BERREYESA.

Subscribed and sworn to before me, this 16th day of December, 1857.

[SEAL.] P. K. WOODSIDE,
Notary Public.

Affidavit of C. M. Chamberlain in support of Motion.

In U. S. Dist. Court for the Northern District of the State of Calif'a.

UNITED STATES
v.
M. G. VALLEJO.

CITY AND COUNTY OF SAN FRANCISCO, *ss.*

C. M. Chamberlain, of the city and county of San Francisco, being sworn, saith, that he has been employed by a large number, to wit, twenty or twenty-five persons, who reside and have taken up claims on the ranch known as the Suscol ranch, in the State of California, to procure a rejection of the claim or title to said ranch, the same being supposed by said persons, and many others residing thereon, to be illegal and fraudulent; that a trial of said claim has been had before the hon. court, but no decision rendered, the same being held under advisement; that since said trial material and important evidence has come to the knowledge of the said deponent, by and through the information of certain persons, which, in the opinion of this deponent, if introduced, would defeat and invalidate said claim; that about four weeks since the deponent was credibly informed that Francisco Arce, at the time of the making of the grant upon which said claim is predicated, was the private secretary of the then Governor Micheltorena; that his, the said Arce's, signature to the said grant was not genuine; that he never subscribed his name thereto, but that the same was a forgery; and further, that said signature bears no exact resemblance to his, the said Arce's, signature or handwriting; that a great number of persons could be introduced, if necessary, who were familiar with his, the said Arce's signature, who would swear that said signature, in no material respect, resembles the handwriting of said Arce; and, besides, that other material testimony could be adduced confirmatory and corroborative of the fact that said signature is a forgery.

This deponent saith, that confiding in such information, he took means, some two weeks since, to send to Monterey, where said Arce resides, and then was, requesting him to come to San Francisco, to the end that the affidavit of said Arce might be taken, and the affidavit of such other persons as might be obtained, on which a motion might be made to this hon. court to permit the hearing of further testimony against said claim before the decision thereof. That said Arce came to San Francisco within a few days, and stopped, as deponent was informed, at the California Hotel; that as soon as deponent was advised that said Arce was at said Hotel, which was a day or so thereafter, he, deponent, sent persons to request an interview with him; that this deponent sent again and again for two or three successive days, when, to his astonishment, deponent was informed that said Arce was secreted, and could not be seen; that after several days of ineffectual search for said Arce, and not being able to find him, deponent was informed that said Arce had left for his home, at or near Monterey.

This deponent further says, that when said Arce arrived in San Francisco, many persons who are interested in the confirmation of said claim were then stopping at said hotel; and that, to the best of his information and belief, such persons, or some of them, paid said Arce to secrete himself and leave town, and that some or all of said parties have paid other parties, who were active in procuring the testimony of said Arce, and such others as might be necessary to defeat said claim, to become inactive and silent.

And further, that this deponent knows of no mode by which he can compel the said Arce to make an affidavit for the purpose aforesaid; but that he truly and verily believes, that if the cause be opened for the reception of further proofs, and that said Arce be compelled, by process of subpœna, to give his evidence, it will be made to appear that said signature is not genuine.

C. M. CHAMBERLAIN.

Sworn and subscribed before me, this 18th day of Dec., A. D. 1857.

WM. L. HIGGINS, [SEAL.]
Notary Public.

Endorsed: Filed December 23d, 1857.
JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Affidavit of J. B. Frisbie.

U. S. District Court, Northern District of Cal'a.

THE UNITED STATES, App't,
vs.
M. G. VALLEJO AND ASSIGNS, Resp't.

CITY AND COUNTY OF SAN FRANCISCO,
Northern District of Cal'a, ss.

John B. Frisbie, being duly sworn, deposes and says, that after hearing of the allegations made and circulated by common rumor, about the rancho Suscol, that Judge Hoffman had made certain statements to Major Hensley in respect to his opinion about the title to this ranch, and the course he intended to pursue in regard to this ranch, deponent had an interview with Major Hensley, and asked him what was the foundation for the said reports, and Major Hensley told this deponent that the said statements were entirely without foundation; that he, Hensley, had never made any such statements, and could not have done so, because Judge Hoffman had never made any such remarks to him, nor conversed with him on the subject, nor had he, Hensley, given any authority for such statements; but, on the contrary, he had advised his brother, who resides on the ranch, to purchase under the grant to M. G. Vallejo, telling him that he, Major Hensley, was in Monterey when M. G. Vallejo made his petition to Gov. Micheltorena, and he had no doubt of the genuineness of the title.

Deponent further says, that Major Hensley is absent from the city, and therefore deponent cannot procure his affidavit, and deponent verily believes that the name of one of the judges of this court has been most unwarrantably used by those who are endeavoring to stir up trouble upon the ranch.

Deponent further says, that this case was a long time pending in the land commission, and a great deal of documentary and oral testimony was taken, and the case was diligently opposed by the law agents of the United States, and was not passed upon by the commission without due consideration, because the case presented some legal points, which distinguished it from the mass of colonization grants, but no question was made in any respect as to the bona fides of the grant. It was one of the latest filed here, being 318 on this docket. The transcript was filed Nov. 7, 1855, and the cause was at issue, and prepared to be submitted to the court, Feb. 16, 1856. From that time no step was taken in the cause for more than a year. But on 9 March, 1857, when the cause was called in its order, upon the representation of Mr. Foote that he could produce some material testimony againt the grant, one week was allowed to him to examine the witnesses, and the claimants' counsel agreed to attend at any time upon one hour's notice. His partner, Mr. Watson, did examine several witnesses, but so irrelevant and useless was their testimony that Mr. Foote refused to sum up the case, or file a brief declaring that the squatters had deceived him as to what they could prove. On the 16th March, the claimants' counsel again proposed to submit the case, and so continued to urge it upon the court and the district attorney until the 17th June. The case having been submitted in the meantime, with leave to file briefs, and on said 17 June, the dist. att'y filed his briefs, to which claimants' counsel filed a written argument in reply. Since that time the inhabitants of the rancho have remained quiet, there being very few squatters upon the ranch, until lately, when ~~Chamberlain, Goat~~, and some others, residents of San Francisco, came up, or sent their emmissaries into the neighborhood, to induce people to go and squat upon the land, and to sign an agreement to give them a certain share of the land, or money, in case they should succeed in defeating the grant, and making various representations in regard to the validity of the grant and its authenticity.

JOHN B. FRISBIE.

Sworn to before me, this 23d day of Dec'r, 1857.

JOHN BENSON, [SEAL.]
Notary Public.

Endorsed: Filed December 23d, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Affidavit of Jno. Toomey.

U. S. District Court, Northern District of Calf'a.

THE UNITED STATES, App't,
vs.
M. G. VALLEJO AND ASSIGNS, Resp't.

CITY OF SAN FRANCISCO,
Northern District of Cal'a, ss.

John Toomey, being duly sworn, deposes and says, that he has resided on the Soscol ranch about four years; that the said rancho has, until the late proceedings of Chamberlain and his associates, been almost free from squatters; that by the exertions and persuasions of said Chamberlain, the said ranch has been swarmed with squatters, who have disturbed the farmers in their possessions, broken down their fences, prevented the erection of others, taken possession of lands long since quietly possessed and occupied, and put a stop to many contemplated improvements. Deponent was informed by Gillispie, one of those active in the squatter movement, that Judge Hoffman had stated to some persons that it was his opinion there was something wrong about the Suscol grant, and that he would keep it until it was properly sifted out. Deponent knows of efforts made among the squatters to raise a fund of money for the purpose of opposing the claim. Although the agreement between the squatters and Chamberlain & Co., which is in writing, was wholly contingent, yet lately there has been a pressing demand among the squatters for a sum of ready money for some purposes connected with the opposition.

Deponent further says, that he has heard the affidavit of Berry Shirge in relation to this matter, and fully concurs with the same, so far as the matters are within his knowledge, and particularly with respect to the history of the title, the improvements upon the ranch, and their value.

JOHN TOOMEY.

Subscribed and sworn to before me, this 22d day of December, A. D. 1857.

JOHN BENSON, [SEAL.]
Notary Public.

Endorsed: Filed December 23d, 1857.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of E. A. Laurence.

U. S. District Court, Northern Dist. of Cal'a.

THE UNITED STATES, App't,
v.
MARIANO G. VALLEJO AND ASSIGNS, Resp't. } 317.

CITY AND COUNTY OF SAN FRANCISCO,
Northern District of California, ss.

Edwin A. Laurence, being duly sworn, says, that he is an attorney and counsellor of this court; that he knows Francisco Arce. Deponent wrote to him to come up to San Francisco to give his testimony in the case of Romero in this court. He promised to come on a certain day, but did not come on that day, but did come on the 6th in the stage. Deponent saw him when he arrived. During the week following he came to the office of deponent several times; staid at the Tehama house; went to the archives to examine papers; testified before Com'r Grymes in the U. S. dist. cl'k's office, being some 6 hours under examination. During a part of which time, the judge of this court was present, and many others; remained in this city two or three days after; he was here openly; there was no attempt at concealment; he intended to have left on Wednesday; then waited to give his testimony until Friday, and then staid some days after; he staid to give his testimony some days after; he staid to give his testimony some days later than he intended to originally, and was all day giving his testimony.

E. A. LAURENCE.

Sworn to before me, this 23d day of Dec., 1857.

JOHN BENSON, [SEAL.]
Notary Public.

Endorsed: Filed December 23d, 1857.
JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Affidavit of B. Shouse.

U. S. Dist. Court, Northern District of Calf'a.

THE UNITED STATES, App't,
v.
MARIANO G. VALLEJO AND ASSIGNS, Resp't.

CITY OF SAN FRANCISCO,
Northern District of California, ss.

Berry Shouse, being duly sworn, deposes and says, that he has resided upon the Soscol ranch for nearly five years past, and is well acquainted therewith. That until lately the said ranch has been comparatively free from squatters; but about two months since Chamberlain and Groat *had* lawyers of this city commenced to stir up the people in the neighborhood of said ranch, and to hold meetings, and speak against the title of the ranch; and at such meetings the alleged hostility of Judge Hoffman to the title was freely made use of, and it was publicly asserted at said meetings that Judge Hoffman had been to Major Hensley, and had said to him, that he believed there was something rotten about the grant, and that he had it in his court, and he intended to keep it there until he was satisfied, if it was twenty years.

Deponent further saith, that these parties invited people to come and squat upon the ranch, declaring it to be public land, under an agreement with them to give the said Chamberlain & Co. one-fourth or some other portion of each one's possessions in case they succeeded in defeating the claim, or, in lieu thereof, a certain sum in money, the whole being contingent. That, in consequence of these proceedings, a horde of people have come upon the land, broken down the fences of those farmers holding under this title, threatening to destroy the crops, preventing others from erecting fences or putting in crops, disturbing and disquieting those who have been for years in quiet possession of their lands, cultivating and improving them.

Deponent further says, that the whole title to said lands has passed out of the original grantee, and is now divided among many thousands. Upon one side of the ranch is the town of Vallejo, whose inhabitants not only hold their house-lots under this title, but *these* are surrounding the town, and running back into the ranch, many small parcels of land in which the people of Vallejo have invested their small savings. On another part of the ranch stands the city of Benicia, the Pacific Mail Steamship Company's works, and the headquarters of the Pacific division of United States troops, with its barracks, &c. On another side, in the valley of Soscol, Thompson's nursery, believed to be the largest in the state; and the remainder of the ranch is divided among various parties, bona fide purchasers, and cut up into farms, stock, ranches, &c., with large and valuable improvements. The title under which they purchased, and which is sought to be confirmed herein, was recorded in the county recorder's office of Sonoma in Dec'r, 1850, as appears by the certificate on the back of the grant, and was thus early submitted to the examination and inquiry of every one. Many officers of the United States were interested in founding the city of Benicia. The government itself approved of the grant by purchasing under it, after an examination of the title, for their own works and headquarters. The state approved it by locating the capital of the state upon it. The Pacific Mail Company, aided by the best counsel, purchased under it; and although this case has remained open for the introduction of testimony for years, not one solitary witness has ever appeared to question the genuineness of the title-papers, nor was anything ever said against their authenticity until now.

Deponent has lately heard it talked about generally on the ranch, that it was necessary for the squatters to raise a considerable purse of money, without which they could not get on; that it was necessary to have certain depositions, and that they could not get them without money. This has been during the week or fortnight past.

Deponent further says, that there has been expended upon the ranch over three millions of dollars by those holding under the grant to M. G. Vallejo.

BERRY SHAUSE.

Sworn to before me, this 22d Dec'r, 1857.

JOHN BENSON, [SEAL.]
Notary Public.

Endorsed: Filed December 23d, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Copy of Letter to M. G. Vallejo.

S'r Coronel D'n M'no G. Vallejo, Comand'te Militar de la linea de Sonoma, a S'n Fra'o.

Remito a V. S. al titulo del parage nombrado Sascol, sintiendo este gob'no no aceptar la primera de las ofertas que V. S. me hace por que el supreme gob'no de la nacion tiene mandado se suspenda todo page atrasado hasta 1o de Octobre, de 1841, lo que le servera de regla para con sus subordinados, cuya suspencion fue estenciva hasta el desa hago de la hacienda publica y la que aun yo tube que safrir una cantedad considerable de miles, de pesas, pero si admito la oferta de las cinco mil pesos en efectos de esquil mas pa. las Tropar por la emperiosa necessidad que tengo de el los para mantenerlas a cuyo efecto mando la goleta California pa. que se sirva cargarla con quinientas anegas de mais, docientos cencuanta de frijal, dacientos arrobas de carne seca y quinientos pares,

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de zapatos o los materiales para hacer los que me infarman no ser le defecil remiter, y conociendo tambien que no le seria a V. S. muy grabosa suplica en cara cidam'te me mande dos mil p's en plata, en consideracion, a hallarse el erario del departam'to tan escass que desde mi llegada a el no ha producido por ni haber entrada de buques, a mas de este la trapa de mi espedicion se socorre diariam'te con dinero en mans por estar sujeta a diversas metodo de contavilidad administracion y castumbre que las presediales como V. S. sabe del mado que el resto de ejercito nacional y cuya servicia agradecen sobre manera. Esta orden proparciona de ofrecer a V. S. mis consideraciones.

Dios & Aug'o, Mro. 15, de 1843.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of commissioners "to ascertain and settle private land claims in California," by virtue of the power vested in me by law, do hereby certify that the 3 preceding and hereunto annexed pages of tracing paper, numbered from one to 3 inclusive, exhibit a true and accurate copy of a letter as recorded in a copy book of official correspondence for the year 1843, as the same is found in the archives belonging to the former government of California, now in my office and under my charge.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 21st day of December, 1857.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

Endorsed: Filed December 23d, 1857.
JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Translation of Letter to M. G. Vallejo.

Senor Colonel Dn. M'no G. Vallejo, Military Command'te from the line of Sonoma to Sta. Fr'o.

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I remit to you the title of the place called "Soscol." This gov't regretting not to accept the first of the offers which you make me because the supreme gov't of the nation has commanded that all payments in arrear be suspended until the 1st of October, 1841, which will serve you as a rule towards your subordinates, which suspension was made to extend until the relief of the public treasury, and which I myself had to suffer to a considerable number of thousands of dollars, still I accept the offer of five thousand dollars in effects of produce for the troops, because of the imperious necessity which I am under to have those things for their support, for which purpose I send the schooner California, that you may be pleased to lade her with five hundred arrobas of maize, two hundred and fifty of frijoles, two hundred arrobas of dried meat, and five hundred pairs of shoes, or the materials to make them, which I am informed it will not be difficult to send; and knowing also that it will not be very burdensome to you, I entreat you very earnestly to send me two thousand pieces of silver in consideration that the treasury of the department is so destitute. That since my arrival here it has not produced anything by reason of no vessels having entered, besides this the troops of my expedition are supported from day to day by money in hand, being subject to a different system of accounting, administration, and custom from those of the presidios, as you are aware, in the same manner as the rest of the national army.

And this service will oblige me beyond measure.

I take this opportunity to offer you my considerations.

God, &c.

Angeles, March 15, 1843.

Endorsed: Filed December 23d, 1857.

JNO. A. MONROE, *Clerk.*

It is hereby agreed that the foregoing translation be filed as a correct translation of the original.

TULLY R. WISE,
Acting U. S. Att'y.

Order denying Motion to reopen cause.

At a stated term of the district court of the United States of America, for the northern district of California, held at the court room in the city of San Francisco, on Wednesday, the 23d day of December, in the year of our Lord one thousand eight hundred and fifty-seven.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
M. G. VALLEJO AND ASSIGNS.
} D. C. 318; L. C. 291.—"Suscol."

The motion to reopen this case for further evidence came on this day to be heard, and was argued by counsel, and thereupon in consideration thereof, the court being of opinion that the affidavits produced in support of said motion were insufficient, and that no sufficient showing had been made to reopen said cause, doth adjudge, order and decree that the same motion be, and the same is hereby, denied.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed December 23d, 1857.
JOHN A. MONROE, *Clerk.*

Affidavit and Notice of Motion.

U. S. District Court, Nor. Dist. of California.

THE UNITED STATES, App't,
vs.
MARIANO G. VALLEJO AND ASSIGNS, Resp't.

NORTHERN DISTRICT OF CAL'A.,
City and County of San Francisco, ss.

Benjamin S. Rrooks, being duly affirmed, saith, that he is the attorney for the claimants; that prior to the submission of this case he made diligent search for documentary testimony existing in the archives, but without success; that a few days since J. J. Williams, esq'r, one of the attorneys of this court, informed Capt. Frisbie, one of the claimants, that he had accidentally discovered in the archives a copy or record of the letter of Gov. Micheltorena to Gen. Vallejo, the original whereof is already in evidence. Deponent immediately procured a traced copy, and the same is now on file in this cause in the office of the clerk of this court, and he verily believes that the same is material testimony for the claimant, and being record evidence ought to be received as evidence without prejudice to the submission of the case heretofore made.

B. S. BROOKS.

Sworn to before me, this 4th day of January, 1858.
JNO. A. MONROE,
U. S. Commissioner.

SIR: Please to take notice, that upon the affidavit of which the foregoing is a copy, I shall move this honorable court on Monday, Jan'y 4th, 1858, at the opening of the court on that day, or as soon thereafter as counsel can be heard, that the traced copy of a letter from Gov. Micheltorena to Gen. Vallejo, on file in this cause, be considered in evidence without prejudice to the submission of the case.

Yours,
BROOKS, *Att'y for Cl't.*.

To Col. DE LA TORRE, *U. S. Dist. Att'y.*
Dec. 30th, 18~~6~~57.

[REC. CXCVIII, D. T., 1860.]—10

I admit service of a notice of which the within is a copy, and a copy of the annexed affidavit.

Dec. 30th, 1857.

P. DELLA TORRE, *U. S. Att'y.*

Endorsed: Filed January 5th, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order admitting traced copy from Archives, &c., in evidence.

At a stated term of the district court of the United States of America for the northern district of California, held at the courtroom in the city of San Francisco, on Tuesday, the fifth day of January, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

MARIANO G. VALLEJO and ASSIGNS, Responents,
vs.
THE UNITED STATES, Appellants.
} L. C. No. 291.
D. C. No. 318.

Upon reading and filing the affidavit of B. S. Brooks, and notice of motion and due proof thereof upon the district attorney of the United States, and it appearing to the court that a certain document has been discovered in the archives of the former government, whose existence was unknown to the claimants or their counsel until after the submission of this cause, and which is material evidence therein, and forms part of the archives of the former government, as appears from the affidavit of Manuel Castro, on motion of Mr. Williams, of counsel for the claimant, it is ordered that a traced copy of the said document from the original in the surveyor general's office, duly certified, being the record of the original letter from Gov'r Micheltorena, which is already in evidence, as the same is recorded in the book of correspondence of the government, and likewise the deposition of Manuel Castro, filed herein on the 22d day of December, 1857, referring to the same document, be filed and received in evidence in the cause with the like effect as if they had been introduced and received in evidence prior to the submission of the cause.

Enter the above order.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed January 5th, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion delivered by Honb'le M. H. McAllister.

THE UNITED STATES
vs.
M. G. VALLEJO and ASSIGNS.
} No. 318.

The claim in this case was confirmed by the board of land commissioners. On appeal to this court, it was submitted for review some time previous to the departure of the district judge, and it becomes my duty to dispose of it. The documentary title of claimants is as follows:

1. An archive copy of a communication from Micheltorena, then governor, dated March 15, 1843, in which he rejects a proposition made by the claimant, that the government should grant Suscol (the ranch in dispute) in consideration of services rendered, and payment therefor; but accepts another proposition of $5,000, and directs $2,000 to be sent in silver, and supplies to the amount of $3,000 be delivered on board of the schooner California.

2. A grant of same date, (15th March, 1843,) to the petitioner, signed by himself as governor, and Francisco Arce, secretary ad interim. On the face of this grant the governor professes to make it by virtue of the powers vested in him, and to grant to him, the petitioner, the ownership of it, subject to the approval of the assembly. The quantity of the land granted is not stated; it is designated as "the place known by the name of Suscol." It is described as bounded on the north by the lands called Tuculay and Suisun, and south by the straits of Carquinez. This grant is made subject to the condition that the petitioner shall apply for the revalidation by the government of the present title on stamped paper, presenting also a map, and also other conidtions, among which one is, that the petitioner shall build a house within one year.

3. Then follows a title on stamped paper, dated June 19, 1844, dated at Monterey, signed by Governor Micheltorena, and attested by Arce, as secretary of State ad interim, which describes the land as bounded north by lands called Tuculary and Suisun, and on the east and south by the straits of Carquinez, Mare Island, and the estero de Napa. This grant states that the petitioner had requested the purchase of the place named Suscol, and that $5,000 had been received by the government to its satisfaction. It recites that, using the powers vested in him by the supreme government of the Mexican nation, he has sold to the petitioner the aforesaid land of Suscol for the sum of five thousand dollars, the receipt of which by the government he acknowledges, and declares the petitioner owner, to occupy and possess without restriction.

4. Then comes the record of approval by the assembly, on stamped paper, dated at Los Angeles, September 26, 1845, naming both foregoing titles. This document was received in evidence by the board of land commissioners, is included in the transcipt of the record, and enumerated in the brief of the U. S. district attorney, but who states that the original is not in the transcript, and the signatures have not been proved. Such I find to be the fact, and therefore exclude the approval from the documentary evidence.

As to the genuineness of the two grants, it seems to be admitted. The district attorney states that the signatures of Micheltorena and Arce were proved by Pablo de la Guerra. He further admits, "that no testimony has been introduced impeaching the genuineness of the testimony of the title-papers."

5. The fourth document of title is the original official communication, dated March 14, 1843, from Governor Micheltorena to the petitioner, in which he states he had sent a title for the place called Suscol. It expresses the regret of the government that it cannot accept the first offer which the petitioner offers, and which had been made, because the supreme government had ordered all back pay suspended which became due before a certain date named, which suspension should continue until the public treasury should be relieved from its embarrassment. It further states the imperious necessity which he labored under to maintain his salaries, for which purpose he sent the schooner California, and requests the petitioner to find her with provisions to certain amounts specified, and five hundred pairs of shoes, or material for making them.

The above official communication, sent with the first named title to the petitioner, is a certified copy produced from the copy of the book of official communications in the surveyor general's office, between the Mexican functionaries for the year 1843. It is also referred to in an official letter from Governor Micheltorena to the commissary, Jose Abrego. (See archive exhibits in the case of Limantour vs. U. S.) A similar communication refers to John B. Cooper as captain of the schooner California. (Ibid. 14.) Setting aside the second grant of 19th June, 1844, the official communication of Governor Micheltorena, accompanying the title of 1st March, 1843, shows the grant to have been a sale. In fact, the district attorney treats the whole transaction as one, and that is the main ground on which he rests the validity of this claim.

If the governor had the power to effect a sale, the recitals in the grant that it was made under the colonization laws, although it could not have been made under them, does not necessarily show it was made without any authority. U. S. vs. Clarke, 8 Peters, 436.

Independently of the acknowledgment of the receipt of the consideration money of $5,000 by the governor, the testimony of John B. Cooper confirms, as far as it goes, the payment of that money to the government. This witness states, that in the year 1843 or 1844, (it is evident from the facts subsequently stated by the witness, it was in 1843,) "I took some supplies in the schooner California from San Pedro to Petaluma, for Governor Micheltorena and by his direction. The supplies consisted of corn, wheat, beans, peas, blankets, tanned leather, and shoes; does not recollect their value. The vessel carried about eighty-five tons, and was loaded full. M. G. Vallejo furnished the supplies with which the vessel was loaded." The witness deposes that he saw Michel-

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torena at Los Angeles before he went after the supplies, and was told by him that Vallejo (the petitioner) had offered to buy from him the tract of land called Suscol, and "he sent me after the supplies, which I understood from him were to go in payment of that land. The supplies were furnished before Micheltorena came up to Monterey, and the same summer he came here." The only mistake which appears in the testimony of this witness, is in the amount he thinks Micheltorena told him the petitioner
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Juarez, a witness, deposes, he has known the Suscol ranch for twenty years; has known it in the possession of Vallejo, (the petitioner,) who has occupied it with cattle and horses; he has had 12,000 head of cattle, and from 800 to 1,000 head of horses on it; he cultivated a considerable portion of it; how much I cannot tell; he sold 40 or 50 quintales of grain; I lived twenty years on the adjoining ranch.

Pena, another witness, swears he has known the ranch for twelve years, during the whole time have known it in possession of M. G. Vallejo, (the petitioner,) who had a house built upon it, cattle amounting to four or five thousand, horses and some cultivation.

Vaca states, that when he became first acquainted with the ranch in 1837, it was then occupied by General M. G. Vallejo, (the petitioner,) who had a house built upon it, upwards of 3,000 cattle, had some horses, a little cultivation, and has occupied it down to this time, (1853.)

Salvador Vallejo. This witness is the brother of the petitioner; his testimony was attemped to be impeached, to which reference will be made. He strongly confirms the testimony of the three preceding witnesses.

The testimony of the three witnesses is referred to by the disted. The district attorney states that the signatures of Micheltorena and Arce were proved by Pablo de la Guerra. He further admits, "that no testimony has been introduced impeaching the genuineness of the testimony of the title-papers."

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The genuineness of the two grants is proved by the testimony. The district attorney admits no testimony has been produced to impeach them. The testimony has been on file since the decree was rendered by the board of commissioners in 1855, and not a single witness has been introduced to impeach it, except the single evidence of Salvador Vallejo. The next question is as to the possession of the premises. Some conflict has arisen out of the fact that they had been in possession of the military government at a time when the petitioner was military comandante; that the possession passed to the grantee; that he had been in possession of at least a part of the land, and built a house upon it prior to the grant of 1843, is proved. It is important to examine the testimony minutely in relation to possession, as it is a circumstance calculated to show the bona fides of the transaction, sustained as it is by the admitted genuineness of the two grants, and the payment of the money consideration.

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Salvador Vallejo. This witness is the brother of the petitioner; his testimony was attemped to be impeached, to which reference will be made. He strongly confirms the testimony of the three preceding witnesses.

The testimony of the three witnesses is referred to by the district attorney, and the objection solely made, is that no one of them, nor any other witness, proves that a house was built within one year from the grant of 1843, and that the testimony was not sufficient to prove the inhabitancy of the grantee. The board of commissioners, in their opinion, say of the tistimony:

"The proof of occupancy and cultivation required by the laws of colonization, is beyond doubt and abundant."

It certainly proves possession by the grantee. The fact that he had built a house prior to the grant, and did not build a second house under the circumstances of this case, cannot operate in this court as a forfeiture of all his interest under the grant. The possession of the land and the cultivation of a portion of it under the grants was a sufficient occupation. To disprove the foregoing testimony some depositions have been taken pending the appeal of this case.

That of Jose Ramon Mesa states, that the possession of the ranch was in the Mexican government in 1846, and he says the soldiers were still there when the United States took possession of the country. In his examination he swears, the last time he saw the soilders on this rancho Micheltorena, governor, was there. This must be incorrect, for it is an historical fact that Micheltorena was expelled from the country in the early part of 1845. It appears by the official correspondence, that the petitioner was military commander in 1843, and it is historically true that he continued in that capacity until 1846. The civil war which had been pending in California terminated by the abdication of Micheltorena on the 22d February, 1845, and in 1846 this country was invaded by a foreign country, and the simple fact sworn to by this witness, that soilders were on the ranch at the time he does, Vallejo being commander, cannot outwheigh the direct evidence given by the witnesses for the petitioner.

In the latter part of his deposition he qualifies his testimony, and says, "I have known Gen. Vallejo to take stock off the ranch and sell it, both before and after the Americans came here; I believe that he sold all the stock he took off. The ranch was under the control of Gen. Vallejo until the Americans came to this country; it was recognized as being under his control, and the deposition concludes, that "after Micheltoreno left the country Vallejo had vaqueros and cattle on the ranch."

Pacheco, a witness for the government, confirms the testimony of immediately preceding witness. In a subsequent part of his deposition, to prove occupation by the Mexican government, he states, that the last time he saw soldiers on the ranch it was in 1839. Alvarado was governor at the time, he thinks, and such was the fact. If the year 1839 be the correct date, it cannot be the proof of the fact of Mexican posession in 1843, and subsequently.

Westgate is another witness for the government, and swears to the Mexican possession of the ranch from the fact that soldiers were there; and he swears, negatively, "he never knew Vallejo had any claim to the ranch than as general in the army, and never heard of his claiming it as his own property until 1852."

Watson is the last witness for the goverment on that point, which has been taken pending the appeal. This witness knew the ranch in 1846, negotiated for the purchase of a part from Vallejo (the claimant) in 1847, which was broken off because the latter refused to give a warranty deed, but offered to give a quit-claim one, with a warranty by himself and heirs. In 1848, another attempt was made by witness to purchase another portion of the ranch from claimant, but failed for the same reason for which the negotiation in the preceding year was not consummated.

The depositions were taken in 1857. They cannot be deemed to outweigh the direct and pointed testimony of Juarez, Vaca, and Pena, whose depositions were taken in 1853, since which they have been on file in the office of the land commissioners and of this court. No attempt to impeach the credibility of those three witnesses during a series of years which has elapsed, although an attempt was made to impeach the credit of Salvador Vallejo. Two witnesses produced by the government swear that they would not believe him on his oath. The third witness (Westgate) produced by the same party swears, "he knows Salvador Vallejo, and knows his reputation for truth and veracity; I would take his word anywhere." The other witnesses stand unimpeached, and it is unnecessary to rely on the testimony of Salvador Vallejo.

This case, then, is to be considered as one in which the title-papers are admitted to be genuine, the payment of a money consideration paid, and the possession of the claimant, as was ordinarily taken under the laws and usages of Mexico, established. The sole grounds taken by the government, on which the validity of this claim is resisted, are:

1. That no witness proves that a house was built within one year from date of the grant of 1843. That a house was built upon the land prior to the date of either grant by the claimant is clearly proved. That a second house was not built, (as subsequent condition,) especially in the case of an absolute sale, could not authorize a court of equity to forfeit any interest which has become vested in the claimant.

2. The second ground is, that the grant of 1844 is invalid, because it is without restriction, and for a consideration of 5,000 in money.

3. Because the governor has exceeded his power in making a grant for the excess of eleven leagues.

The two last objections, which urge the grant to be void because it was a sale for a money consideration, and because it exceeds in quantity eleven leagues, will be considered together. These objections apply to the second grant of 1844, which purports to be on its very face an absolute sale.

This grant cannot be deemed, in the language of the Supreme Court of the United States in the Cambuston case, (20 How., 64,) "a pure donation without pecuniary consideration or meritorious services rendered to the government." Nor does it purport to be issued under the Mexican colonization law of 1824, or the regulations of 1828. It is treated by the government attorney for what it really is, an unrestricted sale for a pecuniary consideration. Had it been a pure donation, made professedly under the laws of Mexico, professing to have been isued by virtue of those laws, and in pursuance of the terms and provisions prescribed by them, proof of a compliance with the restrictions by the governor would not have been afforded by the recitals in the grant of his having done so, especially if there had been doubt of the bona fides of the grant. This is the extent to which the court went in the Cambuston case.

It does not apply to a bona fides; all made to supply the necessary wants of the government, and applied to the removal of them. If so intended, its practical effect would be in the present and all analogous cases to nullify the applications of the "principles of equity," which are made one of the rules of decision by the act of Congress for this court in the exercise of the jurisdiction conferred on it. Nothing was said by the Supreme Court to justify such conclusion. In that case they use language which indicates that if the grant had not been a mere donation, had been free from suspicion, for meritorious services rendered to the government, or a pecuniary consideration, the claimant would have stood on a different footing. They say, (20 How., 64:) "In the examination of this case, we have found it very difficult to resist a suspicion as to the bona fides of the grant. It is a pure donation, without pecuniary consideration or meritorious services rendered to the Mexican government."

In the case of Fremont vs. United States, Taney, C. J., says: "And the grant was not merely to carry out the colonization policy of the government, but in consideration of the public and patriotic services of the grantee. This inducement is carefully set out in the title-papers, and although this cannot be rgarded as a money consideration, making the transaction a purchase from the government, yet it is the acknowledgment of a just and equitable claim, and when the grant was made on that consideration the title in a court of equity ought to be as firm and valid as if it had been purchased with money on the same conditions."

Now, in this case the grant was made for a money consideration by the governor, to obtain, and who did obtain by it, the means to maintain the starving soldiers of the country at a critical moment of its then condition. This fact is ascertained by the official communication of the governor to the grantee, found in the Mexican archives for the year 1843, and referred to in another record for the same year. The grantee was in possession, open and notorious, for three years, undisturbed, prior to the occupation of this country by the Americans. Under such circumstances, could the Mexican government, had it continued, have refused to have recognized the claim of the grantee with justice or equity?

If the facts, that the government received a pecuniary, and for aught that appears, adequate consideration, must necessarily avoid the grants, with the other circumstance, that the quantity of land granted exceeded eleven square leagues, it must be done because these grants are within the operation of the colonization law of Mexico, of 1824, in relation to the distribution of lands by donation, to carry out the colonization policy exclusively, and which restricts the quantity of lands to any one individual to eleven leagues.

The power to give under certain restrictions, made evidently to prevent fraud in the distribution, did not, by implication, repeal the power, if it previously existed, to sell for a pecuniary consideration, if bona fide exercised.

That such power did exist in the governors, the court will now consider, and give its reasons for the conclusion to which it is arrived.

In a work published in 1829, in the city of Mexico, among the laws supposed to be retained in Mexico, is the decree of the Spanish Cortes of January 4th, 1813. This law evinced a spirit and policy evidently more liberal than had previously animated Spanish legislation, and which probably did not operate in Spain, or any of its then colonies, but it is reasonable to believe that in common with other decrees of the Spanish Cortes was called into active existence by the Spanish revolution of 1819, and was in force at the time of the independence of Mexico.

Such is the view enunciated by the board of land commissioners in the case of the city of San Francisco vs. U. S., and the publication of the decree in Mexico, in 1829, as one of the retained laws, as of force, confirms the opinion of the board.

The supreme court of this State, in the case of Cohas vs. Raisin, (3 Cal. 443,) distinctly affirm its existence, and cite the compilation, in which it is given as "Leyes Vigentes." p. 58.

That tribunal, in the case of Welch vs. Sullivan, (8 Cal. 168,) again affirm the existence of this decree. They say the decree of the Cortes in 1813, directs, etc.

But there is internal evidence afforded by the Mexican legislation, on the subject of colonization, that the existence of the decree of 1813 was known, and legislation was enacted in view of some of its provisions. The diseno making the boundaries of the land petitioned for, which is required to accompany the application to the governor, is in conformity to the decree of 1813. Again, the conditions usually inserted in the colonization grants under the Mexican law and regulations are similar to those prescribed in the 2d section of that decree. This, in its preamble, among other things, declares its object to be "to furnish with this class of lands (public lands) in aid of the public necessities (wants) to reward meritorious defenders of their country, and citizens who have no property." The evident intent of this decree, declared on its face, is, that common or public lands should be converted into private property, and lands granted should be distributed in full property, and with established metes and bounds. Upon a careful revision of this decree the conclusion must be, that in the absence of other legislation the carrying out this decree must have devolved on the executive department, and the governors of California, under the instructions of the supreme government would have the power to grant common lands. Now by that decree the quantity of land granted to one individual was not limited to any given quantity, but as to persons, it was limited to citizens.

The only instance in which quantity is limited is in certain donations to certain official persons, to whom small lots of prescribed extent were to be granted. This decree authorized grants to meritorious defenders, and a sale of land to aid the public necessities; and such sale, made in good faith, would be the legitimate exercise of power, unless the provisions of the decree confirming the power has been repealed by subsequent legislation. Have they been repealed, expressed, or by fair implication by the colonization law of 1824 of Mexico, or by the regulations of 1828.

Animated by a more liberal view of her interests, Mexico determined to afford inducements to emigration, and she opened her public lands to foreigners as well as citizens, and determined to make donations for colonization purposes to all who strictly complied with the terms, which in the distribution of the land she prescribed, to prevent fraud. Among these, was limiting the quantity of land in any donation to a single person to eleven leagues. There are many reasons for the legislation of Mexico to surround her system of colonization with checks and limits when the governors were to distribute the public lands, which do not apply to a bona fide sale for money consideration. Such is not a case, which, by implication, should be brought within the colonization laws. The construction of a law, from the action of those whose duty it is to carry it out, should be considered when endeavoring to ascertain the intention of the legislature. The facts, that sales have been made by governors of lands in quantities of more than eleven leagues, who would grant by donation to a colonist not more than eleven, is a circumstance not to be disregarded.

By the records of the case, U. S. vs. Rodriguez, No. 479, among the files of the papers of the board of land commissioners, it is made to appear that Governor Pio Pico issued a grant for twelve leagues in consideration of the sum of $12,000, past indebtedness to the government. The board of land commissioners confirmed the claim. The land in that case is situated in the southern district, and the records inaccessible to us, and it is impracticable to ascertain whether any appeal is pending, has been made, or been dismissed. The opinion of the board is, however, on file among the archives in the surveyor general's office. In that opinion it is stated, "that in consequence of the importance of the two questions involved, the court took the case under advisement, and also for the reason that the determination of the case would settle the fate of a large number of cases undetermined, so far as the action of that tribunal was concerned." The first of those questions involved the only two grounds taken in the present. It was, whether the power of the government of California, under the Mexican authority, existed to sell or grant for a consideration of money, or with limits to exceed in amount eleven leagues. The board decided that he had such power.

In the case of the U. S. vs. M. G. Vallejo, No. 321, the same tribunal affirmed the principle decided in the previous case, and confirmed the claim to fifteen leagues. In their opinion the board say, "there appears no objection to the confirmation of this claim, except that it exceeds in amount the maximum authorized to be granted under the provision of the colonization law. The last five leagues do not appear to have been granted under those provisions, but a sale for an actual consideration received by the government of two thousand dollars. This point was fully considered and decided by the court in case 479, and the doctrine recognized, that a bona fide sale, made for a full consideration by the governor of California, under the Mexican laws, vested in the purchaser both a legal and equitable interest, of which he would not be divested by the government by any rules of law or equity." No power, certainly, was given by the colonization law of 1824, authorizing the governor to grant by way of sale, under any circumstances. If, therefore, he does not possess the power independently of that law, it exists nowhere, and a money consideration need not to have been referred to the U. S. Supreme Court to illustrate the equities of parties applying for a confirmation of their grants.

In the Cambustion , (20 How., p. 4,) they assign as a reason for a strict interpretation of the claimant's grant, and its want of equity, that there had been no pecuniary consideration paid. In Fremont's case, (17 How., 558,) they refer to the fact that the grant was given for meritorious and patriotic services, and should place the claimant on a footing with one who had purchased with money, and thus give a just and equitable claim against the government, the title to which in a court of equity would be firm and valid.

No sale, it would seem, for any amount of money, could be legal so as to pass a title, if it be conceded that no power on the part of the governor to make a grant of the kind existed. It does appear to me, that when the Supreme Court refers to the money consideration of grant as vesting in the holder of it a superior equity, by so doing they have at least not decided that the governor's act was void.

They must have acted under the impression that the power to sell in good faith was in the governor, or that the equity of the case was such as gave "a just and equitable claim against the government," the title to which in a court of equity would be "firm and valid." In either view, but especially on the ground of a power in the governors of California, apart from the colonization law, to aid in good faith, by a sale of land, the public necessities, this court considers that a decree affirming that of the board of land commissioners in this case must be entered.

Such an one will be drafted by claimants' solicitor, and handed to the court for approval and signature.

Endorsed: Filed March 21st, 1860.

W. H. CHEVERS, *Clerk.*

Decree.

In the District Court of the United States in and for the Northern District of California.

Stated term, March 21st, 1860.

THE UNITED STATES
vs.
M. G. VALLEJO AND ASSIGNS.
No. 318, D. C.; No. 291, L. C.

This cause came on this day to be heard upon the certified transcript of the proceedings and decision of the board of commissioners on private land claims, and of the papers and evidence on which the same was founded, and upon the further evidence taken under the order of this court, and was argued by counsel, and thereupon, in consideration thereof, it was ordered, adjudged and decreed as follows, viz:

There is no error in the decision of the said board of land commissioners, and that the decree of the said board be, and is hereby, affirmed.

And it is further ordered, adjudged and decreed, that the claim of the said claimants, and their title to the said lands known as "Suscol," is good and valid, and that the same be, and is hereby confirmed to them. The land of which confirmation is hereby made, is bounded and described as follows: On the north by the lands named Tulucay and Suisun; on the east and south by the straits of Carquines, Yola de la Yegua, or Mare island, and by the estero de Napa. For more particular description reference is to be had to the grants and map, and the deposition of J. M. Hudspeth, taken in this cause, copies of all which are contained in the record.

M. H. McALLISTER,
Judge Cir. Court U. S., Districts of Cal'a.

Endorsed: Filed March 22d, 1860.
W. H. CHEVERS, *Clerk.*

Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the courtroom, in the city of San Francisco, on Monday, the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and sixty, for the trial of land cases.

Present, the Honorable M. Hall McAllister, circuit judge.

THE UNITED STATES
v. } No. 318; L. C., 291.
M. G. VALLEJO AND ASSIGNS.

In this case, on application of Tully R. Wise, acting U. S. attorney, made in open court, it is ordered that an appeal on behalf of the United States from the final decision of this court, rendered in said cause at the present term, be, and the same is hereby, granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

M. HALL McALLISTER,
Judge Cir. Court U. S., Dist's of Cal.

Endorsed: Filed March 26th, 1860.
W. H. CHEVERS, *Clerk.*

Clerk's Certificate.

I, W. H. Chevers, clerk of the disirict court of the United States for the northern district of California, do hereby certify, that the foregoing and hereunto annexed pages, numbered from 1 to 209, both inclusive, contain a full, true, and correct transcript of the record on file from the board of U. S. land commissioners, together with the pleadings, depositions, affidavits, orders, opinion, and decree filed in this office in the case entitled The United States, appellants, vs. M. G. Vallejo and Assigns.

In testimony whereof, I have hereunto set my hand and affixed [SEAL.] the seal of said court, this 30th day of March, in the year of our Lord 1860, and of our independence the 84th.

W. H. CHEVERS, *Clerk.*

Filed 2d July, 1860.

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IN THE SUPREME COURT OF THE UNITED STATES.

UNITED STATES, APPELLANTS,

VS.

MARIANO GUADALUPE VALLEJO, APPELLEE.

BRIEF FOR THE UNITED STATES.

Claimant's Petition to Land Board.

The appellee, General Vallejo, on the 17th of July, 1852, presented and filed his petition to the board of land commissioners for the confirmation of his title to the tract of land called Suscol; in which petition he asserts the following facts, to wit:

1. That he applied in the early part of the year 1843 for the tract named *in payment of moneys due him* from the government of Mexico, whereupon, on the 16th of March, it was granted him *as a colonist.*
2. That he *then purchased* it from the *departmental* government for $5,000, receiving a deed in fee absolute on the 19th of June, 1844.
3. That on the 26th of September, 1845, the grant and sale were duly approved by the departmental assembly.

Documentary Evidence.

To sustain the allegations of title as set forth in his petition, he produced the following documents:

I. A grant by Micheltorena for the tract known as Suscol, bounded north by the land named Tulucay and Suisun, and south by the straits of Carquines, but the quantity is not mentioned. This paper is dated at Angeles, on the 15th of March, 1843, and is as follows: (Record, p. 34.)

Manuel Micheltorena, Governor, Commanding General, and Inspector of both Californias.

[SEAL.]

Whereas, citizen Mariano Guadalupe Vallejo, colonel of cavalry and military commandant of the Territory of Sonoma, has, for his own personal benefit and that of his family, petitioned for the place known by the name of Suscol, bounded on the north by the land named

Tulucay and Suisun, and south by the straits of Carquines, the proper measures and examinations being previously made as required by laws and regulations, using the powers conferred on me, in the name of the Mexican nation I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approbation of the most excellent departmental junta, and under the following conditions:

1st. The person interested shall afterwards apply to this government for the revalidation of the present title on paper of the proper stamp, presenting also the respective map, in order to be able to fix with accuracy the limits and the number of square leagues of which the aforesaid land consists.

2d. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it fully and exclusively, making such use or cultivation of it as may best suit him, but within one year he shall build a house on it, and it shall be inhabited.

3d. He shall request the proper magistrate to give him juridical possession in virtue of this title, by whom the boundaries shall be marked out, in the limits of which he shall place, besides the bounds, some fruit or forest trees of some utility.

4th. If he shall contravene these conditions he will lose his right to the land, and it will be subject to denouncement by another person.

In consequence, I order that this present serving him for a title, note be made of it in the corresponding book, and it be delivered to the person interested for his security and other purposes.

Given in the city of Los Angeles, on the fifteenth of March, eighteen hundred and forty-three.

MICHELTORENA.

FRANCISCO ARCE,
Secretary ad interim.

Note has been made of this title on folio 1.

ARCE.

II. Another grant reciting that Vallejo had requested the purchase of Suscol, and that the governor has sold it to him for $5,000, and declaring to him the ownership of it without restriction. This is dated 19th June, 1844, and is as follows: (*Record*, *p.* 35.)

Stamp First.—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years eighteen hundred and forty-four and eighteen hundred and forty-five.

[SEAL.]

Manuel Micheltorena, Governor, Commanding General, and Inspector of both Californias.

Whereas, citizen Mariano G. Vallejo, colonel of cavalry and military commandant of the frontier of Sonoma, has requested this government

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the purchase of the land known by the name of Suscol, in the jurisdiction of said frontier, bounded on the north side by the lands named Tulucay and Suisun, and on the east and south by the straits of Carquines, Ysla de la Yegua and estero de Napa, the proper measures and examinations being previously made, using the powers with which I am invested by the supreme government of the Mexican nation, I have sold to him the aforesaid land of Suscol for the sum of five thousand dollars, which this government has received to its satisfaction, declaring to him the ownership by these presents, in virtue of which he may occupy it and possess it freely and exclusively, making such use or cultivation of it as may best suit him, without any restriction.

Wherefore I order that this present serving him for a title, note be made of it in the respective book, and that it be recognised by all the authorities of the departments of the republic, delivering up to the person interested as private property purchased from the government of the department in proper and legal form.

Given in Monterey, on the nineteenth of June, one thousand eight hundred and forty-four.

MANUEL MICHELTORENA.

Francisco Arce,
Sec'y ad interim.

Note has been made of this title in the respective book.

ARCE.

III. The following certificate that the titles issued to Vallejo on the 15th of March, 1843, and 19th of June, 1844, were approved by the Departmental Assembly on the 26th of September, 1845: (Record, p. 36.)

Stamp First.—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

Micheltorena.

PABLO DE LA GUERRA.

[SEAL.] Pio Pico, Governor *ad interim* of the Department of the Californias.

The most excellent departmental assembly in session of this day has decreed the following:

Approved, the grant made by the superior departmental government in the titles issued on the fifteenth of March, one thousand eight hundred and forty-three, and nineteenth of June, one thousand eight hundred and forty-four, in favor of citizen M. G. Vallejo, of the place known by the name of Suscol, in the jurisdiction of Sonoma, which land includes the island which is situated near the point in the middle of the straits of Carquines, and between the bays of San

Pablo and Suisun, in payment of the sums of money which he furnished, and other supplies which the aforesaid Señor Vallejo made to the government and garrisons of the department, in entire conformity with the supreme orders of the general government of the nation, and for the security of the party, Don Mariano G. Vallejo, I thus make it known.

Given in the city of Los Angeles on the 26th day of September, 1845.

PIO PICO.

JOSE MA. COVARRUBIAS, *Secretary*.

IV. A letter addressed by Micheltorena to General Vallejo, dated Angeles, March 16th, 1843, the day after the date of the first grant. This letter is translated as follows:

[SEAL.]

I transmit to you the title of the place named Suscol, this government regretting that it cannot accept the first of the offers which you made; because the supreme government of the nation has ordered that all back pay be suspended, which became due before the first of October, 1841, which will serve you as a rule with respect to your subordinates; which suspension was made to continue until the public treasury should be released from its embarrassments, and by which even I had to suffer a loss of a considerable amount, of some thousands of dollars; but I do accept the offer of the five thousand dollars in articles of the produce of the country for the troops, on account of the imperious necessity which I have for them, in order to maintain them, for which purpose I send the schooner California, that you may have the goodness to load her with five hundred fanegas of maize, two hundred and fifty of frigol, two hundred arrobas of dried meat, and five hundred pairs of shoes, or the material for making them, which I am told it will not be difficult for you to send; and surmising also that it will not be very inconvenient for you, I earnestly request that you will send me two thousand dollars in silver, in consideration of the fact that the treasury of the department is short of funds, as it has not received anything since my arrival, there having been no arrivals of vessels; and besides this, the troops of my expedition are daily furnished with cash in hand, as they are subject to a mode of payment, administration, and customs different from the presidial troops, as you know, in the same manner as the rest of the national army, and for which sum it will be exceedingly grateful.

All of which I communicate to you for your information, assuring you at the same time of my consideration and esteem.

God and Liberty. Angeles, March 16th, 1843.

MICHELTORENA.

To the Military Commandant of the line from Santa Juez to Sonoma, Colonel D. Guadalupe Vallejo.

In no part of this letter, it will be observed, does Micheltorena say what is to be the *consideration* of the $5,000. He entreats Vallejo to send him the $2,000, "in *consideration* that the treasury of the department is so destitute." No *price* is mentioned for the maize, frijoles, dried meat, and shoes to be sent by the California.

The first, second, and third of the documents above enumerated (the two grants and the certificate of approval) are produced by the claimant *from his private custody*. There is no trace of them on any record; nor are they referred to in any index, list, or catalogue of the period to which they relate. The grants are *not supported by any espediente*. There is no petition, no map, no order of reference, no informe; nor was any evidence given that the claimant ever received judicial possession; nor did he attempt to show, even by secondary evidence, that the grants had been recorded by the former government.

The records of the Mexican government for the Department of California contradict all the assertions which the claimant makes in his petition to the land board, and show conclusively that his pretended title is utterly false. The "Toma de Razon" for 1844 is extant and in perfect condition. The last of the two grants is alleged to have been made in that year. *It is not on the Toma de Razon.* The first one is said to have been made in 1843. Jimeno's index covers that period, and *this grant is not found in it.* The certificate of the approval by the departmental assembly is also *a sheer fabrication.* The journals of that body are among the records whole and entire. Upon reference to them it will be seen that *no such approval took place.*

The two grants, indeed, are not proved even by that kind of evidence which would be sufficient to establish a private paper. There is no proof of their genuineness, except what is found in the deposition of Pablo de la Guerra, who swears *that, to the best of his knowledge and belief*, the signatures of Micheltorena and Arce are genuine. Arce himself, the attesting witness, was in full life and within the jurisdiction of the court, but *was not produced.*

The only paper that has any claim to be regarded as authentic, is the letter of Micheltorena to Vallejo. A copy of that is found on the records. But what does it mean? What effect shall be given to it? What is its value in establishing title to the land claimed?

It is vague and indefinite, and, taken alone, it is as nearly meaningless as it can be. The Governor announces that he remits to Vallejo the title of the place called Suscol. What title? In whose favor? He expresses his regret that the government cannot accept the first of his offers. What is the first of his offers? Did it concern the land at all? Vallejo says it did — that it was an offer to take Suscol for his back pay; and that is all we know about it. But it accepts the offer of $5,000 in produce. What was that? The letter does not say whether it was an offer to pay $5,000 for Suscol or for something else, or for nothing at all. The offer is accepted in consideration of the destitute condition of the treasury.

If the claimants had produced the letter from Vallejo to Mitcheltorena, or some proof of his offers, so as to show what they were, perhaps the letter in evidence might have been intelligible. But they have chosen to withhold it. They have neither produced the paper containing Vallejo's propositions, or given any excuse for its non-production, or even attempted to supply its place by parol evidence. They have wilfully and voluntarily kept it out of sight. Vallejo's own allegation is all that we have, instead of the evidence which we ought to have.

Connected with this letter is the testimony of John B. R. Cooper, who says he was the captain of the schooner California, which belonged to the department, and was employed in carrying mails, supplies, and troops, along the coast. He says that *about* the year 1842 *or* 1843, he took some supplies consisting of — what? *Wheat*, corn, *barley*, *beans*, *peas*, *blankets*, tanned leather, shoes, and *deer skins*. And he took them from Petaluma to San Diego. This appears to be all that the witness knows of his own personal knowledge; but he adds that Mitchelorena *told* him Vallejo *had offered twenty thousand dollars for Suscol*, and he *understood* the supplies were to go in payment.

Possession and Occupancy.

The evidence of possession, occupancy, and improvements, by the claimant, is quite as insufficient and unsatisfactory as the evidence of title. It will be found in the depositions of Salvador Vallejo, (Rec. p. 10.) Cayetano Juarez, (p. 7,) Felip Pena, (p. 8,) and Manuel Vaca, (p. 9.)

Salvador Vallejo, the first named of these witnesses, is a brother of the claimant. Three witnesses for the United States—Wm. Watson, (Rec. p. 57,) Charles Hoppen, (p. 58,) and J. W. Whitton, (p. 59)—testify that from his general reputation they would not believe him on his oath. In his deposition taken Feb. 16, 1853, he declares that the ranch (Suscol) was occupied by the claimant twelve years (that is, from 1841) with 16,000 head of cattle, 3,000 breeding mares, 2 or 300 tame horses, and 2,000 hogs. Houses and corrals were on it, and portions of it cultivated.

Cayetano Juarez declares that he has known the ranch since 1836 to be in the possession of Gen. Vallejo, who occupied it with cattle and horses—10 or 12,000 head of cattle, 800 to 1,000 horses—and sowed 40 or 50 quintals of grain.

Felipe Pena swears that he has known the ranch twelve years—(his deposition was taken Feb. 15, 1853,) and it was always occupied by M. G. Vallejo, who had a house built on it, 4 or 5,000 cattle, many horses, and some cultivation.

Manuel Vaca says that he has known it since 1837. It was then and ever since occupied by General Vallejo, who had a house on it, upwards of 3,000 cattle, many horses, and some little cultivation.

This evidence is utterly worthless as proof of possession under the title now set up. It goes back to a period long anterior to either of the grants. Juarez says it commenced in 1836, Vaca in 1837, S. Vallejo and Pena in 1841. The first grant is dated in 1843. It is known and admitted that Gen. Vallejo was in possession of the ranch at the date of the grants, had been for a long time before, and continued in possession afterwards. But *his possession was for the nation.* He was military commandante of that frontier and director of colonization. In that character and capacity, not in his own right as proprietor, he administered the affairs of this "rancho nacional." No witness swears that there was any change in his relations to the place at the date of the grant, or that he claimed or occupied it afterwards in any other way than as he had claimed and occupied it before. No juridical possession was ever given him, nor was any act ever done, either by the public authorities of the Mexican government or by the claimant himself, to indicate that the one had relinquished its occupancy or the other taken possession as the exclusive owner.

These are the fair inferences from the evidence produced by the claimant, admitting it to be all true. But to prove it positively the United States have called *Ramon Mesa*, (p. 53,) *Ignacio Pacheco*, (p. 54,) *José Francisco Westgate*, (p. 55,) who testify that there never was any possession of this rancho except that of the government down to the time of the American conquest. It was originally occupied and used as a mission. The first improvements on it were made by the padres. About 1839, (when Figueroa died,) it was taken by the government for military purposes, and continued to be so used until 1846. The stock on it was the property of the government, and soldiers continued upon it down to the last. Vallejo's headquarters were at Sonoma, and his private residence on a ranch near by, which he owned and called Petaluma. None of these witnesses ever knew or heard of Vallejo claiming the national farm as his own until long after the conquest.

Vallejo's own Declarations.

The declarations of Vallejo to *Wm. Watson* in 1848 show that even at that time he had not made up his mind to claim the ranch under the title now set up. It cannot be doubted that the grants were fabricated afterwards. He then said to *Watson*, (p. 57,) that *he had purchased it from the Suscol Indians*—had traded for it with Capitan ————————, who was then at the head of the tribe, but he expected the United States government would swindle him out of it. He refused, for this reason, to sell with a warranty.

Evidence concerning Petaluma.

This is all the evidence which relates to the title or possession of Suscol. The size of the record is swelled by the introduction of documents and depositions which had been previously laid before the board to sustain the claim of General Vallejo to the rancho called Petaluma. The papers concerning the title of the latter place will be found from pages 36 to 49 of the printed record; and the depositions in the Petaluma case occupy all the space between pages 17 and 31.

Why did the claimant introduce into this case the evidence which belonged to another? There is nothing on the record which furnishes an answer to this question. But whatever the object may have been of putting this foreign material upon the record, it has disclosed to the view of the court some interesting and curious facts.

It seems that General Vallejo (then a subaltern in the Mexican army) petitioned Figueroa, in 1834, for the rancho Petaluma, and obtained a concession of it, with what boundaries or *to what extent does not appear*. In 1843 he petitioned Micheltorena, setting forth the loss of the original grants, and praying that a new title might be given him *for ten leagues*. The governor issued him the title for the quantity asked, on the 22d day of June, 1843, and Pico and Covarubias certify that the grant was confirmed by the departmental assembly. This title is undoubtedly genuine. The espediente is found in the office at its proper place, duly numbered, and Jimeno's index has it noted with the corresponding number. The journals of the departmental assembly show that it was approved by that body on the 12th of September, 1845.

But General Vallejo claimed confirmation not only of the *ten leagues* included within the grant just mentioned, but he asserted his right to *fifteen leagues*, all within the limits of Petaluma. The additional five leagues came in this way: He alleged that he had obtained from Micheltorena a *sobrante grant* for five leagues more. He produced a grant dated 22d June, 1844, (see record, p. 46,) accompanied by a certificate that it had been approved on the 12th of September, 1845. (See record, p. 47.) *This sobrante grant and the certificate of approval are forgeries.* There is no espediente, no trace of such a grant on record; and the journals of the assembly show that no such approval ever took place. The claim to the whole fifteen leagues was confirmed by the district court, and the appeal taken by the United States was afterwards dismissed.

General Vallejo, or those who represent him, have thus obtruded upon the notice of the court the evidence which shows that he has already obtained confirmation of five leagues for which his title was fabricated. His dexterity and success are not to be questioned. He has won for himself this large body of rich land; he holds it securely in his grasp, but he has "played most foully for it."

VALLEJO'S OTHER GRANTS.

General Vallejo has had a close and intimate connection with other grants purporting to be made by Micheltorena, and dated in 1844—which have been already investigated by this court. *Julupa*, (22 Howard, 416,) and *Lup Yumi*, (22 Howard, 392.)

Julupa was claimed by General Vallejo himself, though he was not the original grantee; Lup Yumi was based on a license given by him to his two brothers. The four grants—Suscol, Petaluma Sobrante, Lup Yumi, and Julupi—are dated as follows:

Suscol, June 19, 1844.
Petaluma Sobrante, June 22, 1844.
Lup Yumi, September 5, 1844.
Yulupi, November 23, 1844.

The papers in each one of these cases have without doubt been fabricated. It is quite clear, too, that all of them were manufactured in the same shop. The points of resemblance are too numerous and too striking to have occurred by chance.

1. Jimeno was in office and secretary of the government at the times when these grants respectively bear date. But none of them is attested by him, although he attested *all the other grants which were made that year*, except one to himself.

2. They all bear the attestation of Francisco Arce, who was at the time the clerk or deputy of Jimeno, and who *attested no other grant* during the year 1844, except the one to Jimeno himself.

3. To each one of these grants, Arce, or somebody who forged his name, has appended a *certificate* that the *grant was recorded* in the proper book.

4. In each case *the certificate is false.* The proper book is in the office, (the Toma de Razon for 1844,) and none of the grants is on it.

5. In *none* of the cases is there any *espediente or part of an espediente* among the records. All of them are naked grants, unsupported by any petition, informe, map, or other prerequisite of a valid grant.

6. None of the grants was ever before the departmental assembly, as the journals show, though in all the cases (except Lup Yumi) *false certificates of approval* were laid before the land commission along with the other papers.

7. Though *Arce* was the attesting witness in all of the grants, he was *never produced to testify*, and never yet has been sworn *in any of them.*

BOUNDARIES.

Salvador Vallejo, (p. 10,) *Hans Patten*, (p. 12,) and *J. M. Hudspith*, (p. 4,) testify to the boundaries of the tract. The testimony of the last named witness is adopted by the district court as showing the boundaries accurately.

The decree of the commissioners (p. 50) is worth looking at to see with what gross carelessness the most important public and private rights were passed upon by the local tribunals of California. The board *confirm* Vallejo's claim, and for boundaries refer "*to the deposition of O'Farrell on file in this case.*" O'Farrell's deposition *was taken in the Petaluma case*, and in that deposition he did not say a word about Suscol, except that he *understood* Vallejo *claimed* a ranch of that name containing 9 or 10 leagues.

EFFORT TO HAVE THE LAW SWORN AWAY.

The claimant produced *Isaac D. Marks*, (p. 12,) who testified that he knew Micheltorena, and had conversed with him often after he was governor of California. Micheltorena told him his acts in California had been approved by the Mexican government; but did not say what acts nor how they were approved. He had extraordinary powers, but did not mention their character. He made many grants, but did not name any of them. The witness also had a conversation with José Fernando Ramirez, to whom he showed a title made by Micheltorena, and he (Ramirez) said it was good, for Micheltorena had power to grant lands in California, delegated to him by Santa Anna under the Bases of Tocubaya. This deposition is in many respects one of the most singular things of the kind on record.

Ex Parte Affidavits.

All the evidence regularly taken in the cause has now been given; but the printed record, from page 59 to page 74, is filled with *ex parte* affidavits introduced some by one and some by the other party in support of their respective motions to open the case and admit further evidence.

On the 18th of December, 1857, notice was given of a motion to open the case and admit further evidence *on the part of the United States*. (Record, page 63.)

This motion was supported by the following affidavits:

José Beryesa, (p. 63,) who swore that he knew the handwriting of Arce; he verily believed that his signatures to Vallejo's grants were not genuine; and believed further that various credible witnesses could be got who knew Arce's handwriting, and would prove these signatures to be false.

C. M. Chamberlain, (p. 64,) swore that he was counsel in the cause; that since the evidence was closed he had learned that Arce's signature to the grant was a forgery; that it bears no exact resemblance to his handwriting; that a great number of persons would swear to this fact; and that the forgery of the grant would be otherwise proved if the evidence was admitted. The affiant further swore that he made many efforts to get Arce's affidavit while he was in San Francisco, but ascertained that he was secreted and could not be seen, and afterwards left the place without giving his affidavit. Affiant believes that some of the parties interested in this claim had paid Arce to hide himself and leave the town. Affiant could not compel him to make affidavit, but verily believed that if the cause was opened, and Arce subpœnaed, the grant would be proved to be false.

To these affidavits the claimants answered with the affidavits of *Vincent Geleech*, (p. 59,) *Thomas O. Larkin*, (pp. 60–62,) *Manuel Castro*, (p. 61,) *J. B. Frisbe*, *John Toomey*, (p. 67,) *A. E. Lawrence*, (p. 68,) *Berry Shouse*, (p. 69.)

The only matter in these affidavits which is at all responsive to those submitted in favor of the motion, is an attack by *Geleech* on the character of *Beryesa*, and a statement by *Lawrence* that Arce was not secreted; that he came to San Francisco; staid at a well known public house; went about the business he came on without concealment; remained some days afterwards, and then openly went away.

But the claimants seemed to think this motion gave them a good opportunity of *proving their case* by witnesses probably interested and sworn in secret where the United States had no opportunity to cross-examine, contradict, or expose them. So therefore these affidavitmakers proceeded to swear to their opinion that the grant was genuine. They added some other facts which, if regularly proved by proper evidence, would strengthen the title, and a good deal besides that ought not to influence the decision of any court.

But they strenuously resisted the motion made on part of the government for leave to call Arce; and the court decided that the government should not have that privilege. The claimant refused to call the *attesting witness of his own grant;* and when the United States, finding the case closed without his testimony, *proposed to call him on their part*, the claimants object, and succeed in getting him ruled out. And after all this the court decides that the grant is proved!

The court did not reject the motion of the United States on the ground that it was too late to make it, or on any general principle which forbade it to be allowed; because the record (p. 73) shows that the case was on the 4th of January, 1858, opened *for the benefit of the claimants* twelve days after a similar privilege had been refused to the other side.

Nor was the motion of the government refused on the score of the delay which the opening of the case might produce. This is shown by the fact that it *stood two years afterwards* without a decree; and in all that time neither the court nor the claimants made the slightest movement in it.

The statement of these facts must not be regarded as casting any reflection on the court. A simple explanation makes that right. It was *Judge Hoffman* who refused the United States permission to call Arce. The presumption is. that he did so because he knew the claimants were bound to call him. He meant to let them take the consequences of not calling him. He would have told them in his final opinion that it was they, and not the United States, to whom the testimony of Arce was indispensable. He would have given the decree in favor of the United States. But the cause was decided, in the absence of Judge Hoffman, by *Judge McAllister*, who was not informed of the facts, and did not advert to them. Certainly, if he had known how loudly the counsel of the United States denounced the grant as a forgery, and how earnestly they besought the court to let them prove the forgery by the attesting witness, he would not have said, as he did in his opinion, that its genuineness was admitted.

POINTS.

It can hardly be necessary to set forth the specific objections of the United States to the confirmation of a title like this.

1. It consists of two *naked* grants, without a record, without evidence of registry, without an espediente. There is no espediente in the office, and there never was. When the claimants assert that these grants are genuine the record flatly contradicts the allegation. The genuine grants are all recorded and consecutively numbered, and the espedientes are all there numbered correspondingly. But no trace of this grant is found on the record or among the espedientes or other papers.

2. The certificate of approval by the departmental assembly is in the like condition. It also is proved by the records of that body to be a fabrication.

3. All the circumstances of the case go to show that this claim is not only without any just foundation, but the offspring of a gross fraud.

4. Even if the title had been actually made as alleged, it would be void and contrary to law, because the political chief of California had no power to *sell* the lands of the nation. His power is limited by the colonization law.

5. Nor had the political chief any authority or power to give more than eleven leagues to one person. Vallejo, as this record shows, was already in the possession of ten leagues, by a grant, and has had a forged grant confirmed for five leagues more—making in all fifteen, which, added to the eighteen here claimed, will make his domain three times as large as the Mexican law permitted any one to hold.

6. There was never any possession delivered to Vallejo of the land in contest; and this under the decisions of the Supreme Court would be fatal to the claim even if the evidence of the grant were tolerably clear.

7. If all other objections were waived, this title would be void for want of power in the governor to sell or grant lands previously appropriated. This was not vacant land. It was at the date of the pretended grant a "Rancho Nacional," occupied and used by the government for its own special and necessary purposes.

DELLA TORRE'S BRIEF.

For a full argument, and a citation of the authorities on all the points, and particularly on the two last, we refer to the brief of Col. Della Torre, the late district attorney of the United States for California.

JUDGE MCALLISTER'S OPINION.

The judge of the district court started by assuming, (record, p. 79,) 1. That the title papers were *admitted* to be genuine. 2. That a money consideration was paid for the grant. 3. That possession was taken as possession was ordinarily taken under the laws and usages of Mexico. All three of these assumptions are erroneous.

1. There is not a word on the record—not a syllable any where—which shows the officer of the U. S. government or the parties opposing the claim either said or thought that the papers were genuine. The direct contrary is shown by the struggle which was made for permission to prove the forgery of it. The brief of the district attorney is certainly as far as possible from being an admission that the papers are honest.

2. There is no proof that Vallejo ever paid a cent for this land. The only pretence of proof on the subject is in Cooper's deposition, and that amounts to nothing.

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3. No possession of the land was ever given or taken according to any law or usage that was ever heard of in Mexico or elsewhere. The government had a ranch stocked with cattle, horses, sheep, hogs, &c., and soldiers were there to guard and take care of it. These soldiers were under the command of Gen. Vallejo. They continued there until the Americans came and drove them away. Was that a possession taken by Vallejo according to the laws of Mexico? Vallejo may have appropriated some of the stock to his own use both before and after his pretended purchase, but plundering the personal property of the government was not getting juridical possession of a ranch.

EDWARD BATES,
Attorney General.

J. S. BLACK,
J. F. SHUNK,
Assistant Counsel.

IN THE

Supreme Court of the United States.

THE UNITED STATES, Appellants, vs. MARIANO G. VALLEJO, and Assigns, Appellees.

No. 118.
December Term.
1861.

APPEAL FROM THE DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA.

This is an appeal from the decree of the district court, confirming to the claimants the rancho known by the name of "Suscol," claimed under grant by the Mexican government to Mariano G. Vallejo.

The claimants offered in evidence in support of their title:

1st. A grant by Governor Micheltorena to Mariano G. Vallejo, dated at Los Angeles, the 16th of March, 1843.

2d. A letter transmitting the above title written by Governor Micheltorena, and dated the 15th day of March, 1843.

3d. A grant by Governor Mitcheltorena to Mariano G. Vallejo for the same rancho, dated June 19, 1844.

4th. A certificate of approval by the Departmental Assembly.

5th. The testimony of sundry witnesses to prove possession and occupation of the rancho by General Vallejo.

6th. A recorded copy of Governor Micheltorena's letter of the 15th of March, 1843, to General Vallejo, transmitting the title to him, and which is found in the official correspondence in the archives.

7th. The testimony of Juan B. Cooper, that specified supplies were furnished by General Vallejo to Governor Micheltorena, in the year 1843.

BRIEF OF POINTS AND AUTHORITIES BY APPELLEE.

1st. That the evidence proves a valid grant by Governor Micheltorena to Mariano Vallejo of the rancho "Suscol," which ought to be confirmed by this Court.

2d. That if the grant was not in strict conformity to the Mexican laws, rules, and regulations of colonization, yet it was made on valuable consideration, and constitutes an equitable claim or title that should be confirmed. *Fremont's case,* 17 *Howard,* 542.

REVERDY JOHNSON,
JOHN M. McCALLA,
EDWIN M. STANTON,
Counsel for Appellees.

The United States. Appellants
vs – No 118 Decem Term 1861.
M. G. Vallejo and assigns Appellees.

The Appellants rely on the following authorities in addition to that cited in their brief.

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SUPREME COURT OF THE UNITED STATES.

ON APPEAL

FROM THE

DISTRICT COURT OF THE UNITED STATES, FIRST DISTRICT OF CALIFORNIA.

UNITED STATES vs. M. G. VALLEJO.

BRIEF FOR UNITED STATES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1861.

Arredondo's	case	6	Pet.	716
Perchemans	"	7	"	51–87
Clarkes	"	8	"	452–462
Peralta's	"	19	How	347–349.
Sutherlands	"	"	"	363.
Cambustons	"	20	"	64.
Osio's	"	23	"	273.
Alvears	"	"	"	319.

1481

SUPREME COURT OF THE UNITED STATES.

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IN THE SUPREME COURT OF THE UNITED STATES.

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES, FIRST DISTRICT OF CALIFORNIA.

UNITED STATES vs. M. G. VALLEJO.

BRIEF FOR UNITED STATES.

The Record in this case shows the following facts :

A tract of land, situate in what is now Solano county, in the State California, formerly appertained to the old mission of San Francisco Solano ; but, after the decay of that establishment, it was held as a government farm, and was known by the name of "Rancho Nacional," or by its perhaps older Indian title, Soscol. (See cross-examination of J. B. R. Cooper, printed transcript, page .)

At the time of its occupation by the troops of the Mexican government, General Mariano G. Vallejo was military commandant of the northern frontier of Upper California, with jurisdiction extending from the bay of San Francisco on the south indefinitely northward to the confines of Mexican territory. His residence and headquarters were at or near the town of Sonoma, which adjoins a tract of land already confirmed to him, to the extent of fifteen leagues, known by the name of Petaluma.

M. G. Vallejo, the claimant in this case, institutes these proceedings to obtain the confirmation to him of the tract called "Soscol," containing some seventeen or eighteen leagues. The quantity is not specified, for it is claimed that the land was granted to him by boundaries irrespective of quantity ; but it is well known that the tract is large, and its extent is probably not far from the estimate of H. Patten, that it contains fifteen leagues of high and three leagues of tule land. (Printed transcript, page .)

In support of the claim, certain documents have been produced and parol testimony has also been given as to possession and occupation by claimant. The documents are as follows :

1st. A grant from Governor Micheltorena to M. G. Vallejo, dated at Los Angeles, March 16, 1843, with a letter from the Governor to claimant, which it is alleged was sent him with the grant, at Sonoma. It is in the form of an ordinary colonization grant with conditions.

2d. Another grant for the same land from Micheltorena to claimant, dated at Monterey, June 19th, 1844, reciting that it is made for the consideration of $5,000, and is absolute and without any conditions.

3d. A certificate of approval by the departmental assembly, dated September 26, 1845.

The theory of the claim, which it is sought to sustain by these documents and supplementary parol testimony, is, that soon after the accession of Micheltorena to the office of political chief of California, he sold to claimant the land in controversy for a moneyed or other valuable consideration, and that immediately thereupon he entered upon the possession and has continuously occupied it ever since.

The merits of the claim will be examined as they are presented by the documentary and parol evidence.

First. And first we interpose a broad general denial that the governor of California had any right to *sell* the public domain of Mexico or any part of it.

We contend that their power over the subject was limited to the performance of such functions as were assigned them by law, and we assert that no law ever conferred upon them the right to dispose of the public lands by *sale* as separate, distinct, and independent of their right to grant in colonization.

In passing upon the merits of Mexican land grants in California, this court has held a different rule from that which it adopted in cases of Spanish land titles in Florida and Louisiana, as to presumptions of power in the colonial governors to make their grants and dispose of lands in just such manner as pleased them, and the reason is, that the Spanish governors represented the royal personage of an unlimited monarch ; their acts were done as by him, and were valid unless abrogated by his will ; but the reason ceases when we come to examine the acts of a Mexican governor.

Whatever disturbances there may have been to the idea, Mexico for many years has professed to be a constitutional republic; has so held herself out to the world; has been so recognised by our own and all other governments dealing with her, and must therefore be so regarded by this court. The leading rule, then, in examining the acts of her officers must be, that when they do acts purporting to bind their government, the first step in proof of their validity is to show the authority to bind the government. Until this be done, the act must be held void as to the government. In an unlimited government, the power may be presumed from the act ; the authority, from its exercise. But in a limited government of written constitution and laws, where there is no inherent power in public agents, and that which is specifically delegated alone exists, the existence of the power must be established "*aliunde*" before we can proceed to give effect to its exercise.

Now, neither the law of 1824, nor the regulations of 1828, nor any other law which has ever been produced, vests any such authority in the governor of a department. The supreme government reserved this right to itself. To the governors of departments it committed the duty of inducing colonization and settlement of the vacant lands of the republic by such persons as had the proper qualifications. To that end it prescribed the mode and extent in which the political chiefs could alienate its right of property in its vacant lands, and transfer them to private ownership. But this power was limited both in its mode and extent. It is evident its officers could transfer the rights of the sovereign only in such manner as the sovereign chose, and that whatever power was not delegated to them was retained by the sovereign owner, which was the supreme government of Mexico. And such clearly is the doctrine of this court.

It was expounded in Cambuston's case, 20th Howard, at p. 63:

"The question here is not whether the fact of the habitual grant of lands by Mexican governors of the Territory of California to settlers; and also whether the customary mode and manner adopted in making grants do not furnish presumptive evidence *both of the existence of a power* and of a compliance with the forms of law in the execution. We agree that the affirmative of these questions has been frequently determined by this court in cases involving Spanish titles in the Territories of Louisiana and Florida; but no such presumptions are necessary or admissible in respect to Mexican titles granted since the act of 18th August, 1824, and the regulations of 21st November, 1828. Authority to make the grants is there expressly conferred on the governors, as well as the terms and conditions prescribed upon which they shall be made. The court must look to those laws *for both the power to make the grant and for the mode and manner of its exercise;* and they are to be substantially complied with, except so far as modified by the usages and customs of the government under which the titles are derived, the principles of equity, and the decisions of this court.

And this principle has been followed by the court in every subsequent case calling for its application. We have, therefore, but to repeat, that no law or authorization whatever has been shown empowering the governors to *sell* lands. Therefore, considered as a *sale* by Micheltorena to Vallejo, these documents must fail to support any title.

There was grave reason for withholding such power from those officers.

A general power of sale vested in the governors might have enabled them to break up a fundamental policy of the Mexican government in disposing of its lands, which was intended to prevent the accumulation by transfer from the public of more than a certain quantity of land to any individual.

"It shall not be permitted to unite in one hand as property [says the 12th article of the law of August 18, 1824] more than one league square of 5,000 varas of irrigable land, four in superficies of farming land not irrigable, and six in superficies for stock raising." In all eleven leagues. This claim is for eighteen.

The Mexican government was liberal in the extent to which it permitted its officers to go in the disposal of its lands—an extent which may even seem excessive to the present ideas of some; yet it prescribed, as it had the right to prescribe, among the conditions and terms upon which that power was to be exercised, the quantity to which it should be limited, in favor of any single individual. The present, then, like all other acts in excess or beyond the scope of the powers conferred by law, is simply void as a sale, and he in whose favor the illegal attempt was made took nothing by it.

Of course, it is not contended that Mexico could not part with her public domain by way of sale, but only that she never chose to delegate any such authority to certain of her officers.

Whosoever relies upon the exercise of such authority is bound to show its origin and existence.

Nor do we deny that a grant which purports to be a sale may yet be good to the extent and subject to the conditions of a colonization grant, provided the laws regulating such grants be complied with. It may be conceded that the addition of a valuable consideration in the form of a money payment, or a release of a public liability, would not vitiate a grant in other respects valid.

But we deny, that there could be, under the limited powers of a Mexican governor, the entire substitution of one consideration for the other. The additional motive to the exercise of a legal power might not invalidate the act. It might be permissible and proper as an *inducement;* but it is not a *consideration* which could create or support a power not conferred by law.

So it was remarked by the Court in Noe's case, 23d Howard, at p. 315:

"As an *inducement* to the allowance of his petition, the applicant refers to the services he had rendered to the government in a military campaign ; but the *consideration* of the grant is the proposed improvement of the department, by the settlement and occupation of its waste lands.

"The authority of the governor to make the grant is derived from the laws that provide for that object."

In the present case the argument is strengthened by a consideration of the nature of the property, and of the relation in which the claimant stood towards it.

Soscol, or Rancho Nacional, was, as its Spanish name imports, not an ordinary tract of land, regarded by the government in the same light as the mass of the public domain, but it was appropriated to national military purposes : it was a government reserve, and Vallejo was in command of it. Comment is unnecessary as to the impropriety of an officer in charge of public property taking advantage of the necessities of his superior to make an advantageous bargain for himself. Surely the prevention of just such transaction would have been sufficient motive with Mexico to withhold such powers of sale. The propriety of its selection of this spot is shown by the fact that the United States have chosen two of its points—Mare Island and Benicia—as important posts for permanent occupation. We insist, then, that this land, being occupied for national purposes, was, in the language of Mexican law, "withdrawn from commerce," and not the subject of either sale by the governor or of ordinary colonization.

If, then, the governor had not the general power of sale of the public domain, or, if having it, this tract was not subject to his general power,—in either case the alleged sale is void, and the claim cannot be sustained as a purchase.

But is it quite sure that this was even an attempted sale?

The letter of March 16, 1843, is very obscure, and has not been explained in connection with the grant of 1843, as doubtless it could easily have been, did it really admit the meaning claimant would put upon it. It does not say that the title to Soscol is sent to Vallejo in payment of certain anticipated supplies. It simply says that a title is remitted; but it does not connect the title with any contract. It speaks of offers of General Vallejo, but it does not say what they were. It asks for certain remittances, if possible, but it does not say the land is to stand in payment in case they should be made. Explanations for all this are essential. They have not been given.

So it is to be observed that the title is in the form of the ordinary grant in colonization. Nothing is said in it of a purchase; its general recites are as usual, and the consideration alleged is the usual one. The only condition a little uncommon, perhaps, is, that Vallejo should apply for revalidation on stamped paper, and should present the proper "diseño," "in order to be able to fix with accuracy the limits and the number of square leagues of which the land consists;" a direction with which he seems never to have complied.

In fact, we hear nothing of the *purchase* of Soscol, until it is asserted in the alleged grant of June 19, 1844, wherein it is represented as being sold to the claimant for $5,000; and the title as issued therefore without conditions. Does not this fact induce and warrant the belief that the idea of a "sale" is an afterthought, in order to unite in one person grants for more land than the law of 1824 allowed?

Of this grant of June, 1844, more hereafter.

Next: But it may next be urged that if invalid as a sale, still the titles of December, 1843, and June, 1844, may enure to the benefit of claimant, as colonization grants, and so vest the land in him. Were this so to the fullest possible extent, the confirmation could be for only eleven leagues, instead of the whole tract. But it cannot be conferred to any extent.

Consider in the aspect last presented each of the two documents.

If the grant of 1843 be regarded as what on its face it purports to be, an ordinary title in colonization, then it is entirely wanting in the evidences of authenticity which this court has often decided are indispensable to secure the recognition of a grant. There is no expedienté in the archives—no petition—no reference—no report—no evidence of the performance of any of the preliminaries required by the Mexican law. It is significant that all grants made about the same time have their full expedientés extant in the archives. They are collated in a volume to be found in the library of the court. (Limantour case: Land Commission Exhibits—Exhibit H—pp. 1, 2, 3, 4, &c.)

So also the alleged grant or sale of June 19, 1844, is without expedienté or other trace in the archives. No petition, reference, inquiry, or report—not one single step required by the act of 1824 or the regulations of 1828.

And neither of these documents has any mention in Jimeno's Index; nor has the document of 1844 any record in the Forma de Razon, although the book for that year has been preserved. Is it conceivable that a transaction of so much importance should so entirely have escaped the observation of the Secretary of State, the usually accurate Jimeno, as to have been omitted by him in two records, prepared under his immediate inspection, his General Index and the Toma for 1844?

It is difficult also to understand why the governor issued the second grant at all, as his first grant was ample.

Both these documents will be hereafter examined from another point of view. At present the argument is, that, being without the support of archive testimony, and without evidence of the compliance with any of the preliminaries required by law, both these documents must be set aside for their invalidity or insufficiency of proof. It is true that in general terms they recite performance of the requisites of law, but these bare recitals are not of themselves sufficient evidence.

The proof of the handwriting of the officers to the alleged grants is entirely insufficient. But one witness is produced for that purpose, Pablo de la Guerra, and his testimony is limited to his belief that they are the signatures of the respective parties. No evidence whatever is given as to the time of the execution—a matter which the court has held to be absolutely essential in like cases. There was an attesting witness to both—Francisco Arce; he should have been called.

A certificate of the approval of the departmental assembly has been produced of the date September 16, 1845; but, on reference to the original journal, there is no record of that or any other proceeding in the matter on that or any other date. There is no mention of the Soscol grants in any part of the journal. This is the strongest evidence that no such action was ever had; and, consequently, that the certificate of approval is purely fictitious.

Authorities upon points above made.

These questions have been so frequently and recently before this court that they scarcely need more than allusion.

The following rules may be safely assumed as being now beyond doubt:

The highest evidence of the validity of such grants is that found in the public archives. In its absence, proof of its former existence and loss should be supplied, and of a compliance with the prerequisites of Mexican law. Bare proof of the signatures of the officers to the instrument is insufficient, and the recitals in the grant that the legal prerequisites have been complied with are not in themselves sufficient to establish that fact. (See Fuentes *vs.* United States, 22 Howard, pp. 453, 454.)

"The case, then, stands altogether disconnected from the archives, and exclusively upon the paper in the possession of Fuentes. It has no connection with the preliminary steps of the 18th August, 1824, or with the regulations of November 21, 1828. It is deficient in every particular, unlike every other case which has been brought to this court from California. There was no petition for the land; no examination into its condition, whether grantable or otherwise; none into the character and national status of the applicant to receive a grant of land; no order for a survey of it; no reference of any petition for it to any magistrate, or other officer, for a report upon the case; no transmission of the grant—supposing it to be such—to the departmental assembly or territorial legislature for its acquiescence; nor was an expediente on file in relation to it, according to the usage in such cases.

"All the foregoing were customary requirements for granting lands. When they had not been complied with the title was not deemed to be complete for registration in the archives, nor in a condition to be sent to the departmental assembly for its action upon the grant. The governor could not dispense with them with official propriety; nor shall it be presumed that he has done so because there may be, in a paper said to be a grant, a declaration that they had been observed, particularly in a case where the archives do not show any record of such a grant."

The grants under review are obnoxious to the same objections with that of Fuentes.

Again, in the same case. p. 455:

"Abrego's deposition has not that foundation which the rules of evidence require a witness to have to enable him to prove the genuineness of an official signature to a public document, or a signature to a private writing; but, whether so or not, it discloses the fact that there is upon it an official witness of its execution and record, who should have been called to prove it, if he was still living, and, if absent beyond the the jurisdiction of the court, whose signature should have been proved by a witness who was familiar with his signature and handwriting, before secondary evidence could be received of his own signature or that of the official who is said to have executed the paper."

Page 456: "The simplest and best proof of handwriting is the testimony of one who saw the signature actually written, and inferior evidence as to his handwriting is not competent until it has been shown that his testimony to the execution of the paper could not have been procured."

So, there purported to be an attesting witness to these documents—Francisco Arce. We may ask, as the court in the above case asked with regard to Jimeno, why was Arce not called?

Again, p. 460: "In what we have said upon this point we are reaffirming this court's opinion in Cambuston's case, 20 Howard, 59, and we now take this occasion to repeat, that *when it shall appear that none of the preliminary steps for granting land in California have been taken, this court will not confirm such a claim.*"

As to proof of signatures, see United States *vs.* Osio, 23 Howard, at pp. 280, 281.

"Where no record evidence is exhibited, the mere proof of handwriting by third persons who did not subscribe the instrument as witnesses, or see it executed, is not sufficient, in this class of cases, to establish the validity of the claim without some other confirmatory evidence."

This is a ruling upon the very point raised herein. The only evidence of handwriting is that of Mr. De la Guerra, who was not attesting witness, and only speaks in very general terms of his belief as to genuineness.

It is scarcely necessary to refer further in detail to the other cases sustaining and enforcing the same doctrine.

We shall add only an extract from the last reported case—United States *vs.* Castro, 24 Howard, at p. 349.

The grant was wanting in archive testimony, and the court says:

"But, apart from these circumstances, the grant is invalid and not supported by legal proof, even if all the testimony adduced by the claimants was credible, and the witnesses above suspicion.

"The grants of portions of the public domain in Mexico, the mode of obtaining them, and the officers by whom they were to be issued, and the conditions to be annexed to them, were with great precision regulated by law. This law has been so often referred to and commented on in former opinions of this court, that it is unnecessary to report here its particular provisions. It is sufficient to say that it was required to be in writing, the officers and tribunals before which it was to pass designated, and every step in the process, from the petition of the party to the final consummation of the title, was not only required to be in writing, but also to be deposited and recorded in the proper public office, among the public archives of the republic."

"Whenever, therefore, a party claims title to lands in California under a Mexican grant, the general rule is, that the grant must be found in the proper office, among the public archives."

Again, pp. 350, 351:

"It will be found, upon referring to the various cases which have come before us from California, that none have been confirmed unless the grant was established according to the rules of evidence above stated, and they are recognised in the cases of the United States *vs.* Fuentes, 22 Howard, 445; United States *vs.* Bolton, 23 Howard, 341; United States *vs.* Luco, 23 Howard, 615, and the United States *vs.* J. C. Palmer *et al.*, 24 Howard, 125. We repeat again these rules of evidence, because it would seem from the case before us that the board of land commissioners and the district court regarded written documentary evidence, produced by a claimant from a private receptacle and proved by oral testimony, as of equal authenticity and entitled to equal respect with the public and recorded documents found in the public archives; but such a rule of evidence is altogether inadmissible. It would make the title to lands depend upon oral testimony, and, consequently, render them insecure and unstable, and expose the public to constant imposition and fraud. Independently, therefore, of the strong presumptions against the authenticity of the paper produced as a grant, it cannot, upon principles of law, be maintained, even if the testimony produced by the claimant was worthy of belief."

Again: The evidence of occupation and cultivation by Vallejo is most unsatisfactory. In fact, whether the document of 1843 be considered as a colonization grant, or an offer of sale on the part of Micheltorena, there is no satisfactory evidence of its acceptance by Vallejo at that time.

There is no pretence of judicial measurement and delivery of possession—a proceeding which it was his duty to have required; which was necessary to the completion of his title; and which he was instructed, by the third condition of his alleged grant, to institute.

"He shall request the proper magistrate to give him juridical possession in virtue of this title, by whom the boundaries shall be marked out," &c., &c., &c.

The claimant, if his paper be genuine, neglected or refused this direction; and it is by his own fault if it work damage to him. As to the importance of juridical measurement and delivery of possession, the court, in the United States *vs.* Castro, 24th Howard, p. 350, remarks:

"The survey and possession are open and public acts, and would support the parol evidence of its former existence and destruction or loss. It would show the knowledge of the officers of the government of the title claimed, and their acquiescence in the justice and legality of the claim.

"But without a survey and possession, the authenticity of the grant would have nothing to support it but parol testimony, resting only in the knowledge of individual witnesses. For if what purports to be a grant is produced by a party from some private receptacle, and the handwriting of the official signatures proved by witnesses, and even proved to have been executed when it bears date, it is but parol testimony, open to doubt, since its authenticity depends upon the truth or falsehood of the witnesses, instead of resting upon the certainty of the public records of the nation."

An examination of the parol testimony in this case will be a useful commentary upon the wise suspicions of this court as to that class of evidence. It is shown by I. B. R. Cooper, (printed transcript, p. ,) that the rancho had been occupied prior to 1843—first by the mission of San Francisco Solano, and after that by government troops. Now the evidence to prove possession by the claimant either grossly exaggerates, or must be understood as applying to his official possession as commander of those forces.

His witnesses on this point are his brother, Salvador Vallejo, Manuel Vaca, Juan Felipe Peña, and Cayatano Juares. The first of these testifies to an occupation, with cattle, by his brother, for twelve years. As his deposition was made in February, 1853, it carries the possession back to 1841, when the claimant was commandant of the frontier, and two years before his first alleged grant. Peña also testifies to the same facts.

It is proper to refer to the opinion of this court in reference to evidence of this kind of possession. In the case of Teschmaker, 22d Howard, p. 403, the court, in commenting upon the testimony of the same witness, Salvador Vallejo, about his own like occupation of a ranch, in the same section of country, say:

"From the numerous cases that have already been before us, as well as from our own inquiries into the customs and usages of the inhabitants of California, especially those engaged in the business of raising cattle and other stock, this mode of occupation furnishes very unsatisfactory evidence of possession and cultivation of the land, in the sense of the colonization laws of Mexico. Any unappropriated portion of the public domain was open to similar possession and occupation, without objection from the public authorities. Indeed, according to the laws of the Indians, the pastures, mountains, and waters in the provinces were made common to all the inhabitants, with liberty to establish their corrals and herdsman's huts thereon; and a penalty of 5,000 ounces of gold was imposed on every person who should interrupt the common right. (2 White's Recop. 56.)"

"There is also a fact stated by the witness Vallejo, himself, that is calculated to excite distrust as to the extent of the possession and occupation for the purpose stated. He says that there were constant revolutions amongst the Indians at the time; that it was unsafe for families to live there, and that the alcalde at Sonoma refused to deliver him judicial possession in 1845 on account of the danger."

So in this case, as in Teschmaker's, the testimony of Salvador Vallejo and his echo, Peña, is too unsatisfactory to base any favorable conclusion. But when we come to the testimony of the other two witnesses the facts vary. The possession of Vallejo, instead of commencing in 1841, dates back to 1836 or 1837. His cattle increase by thousands.

Now, either this more ancient occupation must be referred to Vallejo's official military possession of a government reserve, in a country abounding in hostile savages, or, if the witnesses intend us to believe it as referring to a private and exclusive possession by Vallejo, we must see that, in their friendly zeal, they have very considerably oversworn themselves.

The weight of credible testimony is clearly against any personal occupation by Vallejo. José Ramon Mesa, Ignacio Pacheco, and José F. Westgate, show very clearly the nature of his possession. From their statement it is evident that Vallejo never displaced the Mexican government in the possession of these lands; that they were a government reserve, and so remained up to the accession of the country by the United States. All the possession ever proved or claimed by him was as Colonel Vallejo, commandant of the Frontier.

Again, still further: If we were to concede that claimant had a regular grant in colonization, accepted by him, and the land occupied under it, still we propose to show that the grant would have been invalid, for the reason that claimant was not at that time capable of taking under the colonization law.

In considering the effect of these grants, as in transfers of other kinds, four questions naturally arise, in due order of reason:

1st. As to the power of the grantor.

2d. As to the capacity of the grantee.

3d. As to the instrument or means whereby the grant is made.

4th. As to the subject matter, or land, which is attempted to be granted.

We deny the capacity of the grantee.

By the section already cited, the 12th of the colonization law of 1824, it was forbidden to unite in one hand more than eleven leagues. Now, the objection does not end with the fact that the present claim is for some eighteen leagues, but it goes much further. At the date of this alleged grant, the claimant had received, and was in possession of other lands conferred by grant, almost to the whole amount allowed by law. The proof of this is in the record.

Sundry matters from the records, and from another case of General Vallejo's, were given in evidence by the claimant before the land commission. In this manner the expedienté in the claim of Vallejo for the land known as Petaluma is before us. In that case, he asked and obtained a confirmation for fifteen leagues, known by that name; ten leagues under a colonization grant, and five by virtue of an alleged purchase of a "Sobrante" to that extent. In that expedienté, the petition of General Vallejo to Governor Micheltorena states, that in the time of his predecessor, Governor Figueroa, about the year 1834, a grant had been made to him for the tract called Petaluma, for ten leagues; that his title had been lost; that ever since the grant he had been in possession; that the record also had been lost, and he prays a regrant of the land. Upon a reference to him, Jimeno, the secretary of state, reported favorably upon the reissue of title, and Governor Micheltorena thereupon complied with the desire of the petitioner, and gave him a title to the ten leagues, dated at Monterey, October 22d, 1843.

Now, this was only the issuance of a new paper to supply the one which had been lost. It was not the giving of any new right, but only the substitution of another instrument of evidence in place of a lost document, so that by the testimony of claimant himself, he was, at the date of his first alleged grant, the owner of ten leagues by colonization grant, and had been ever since 1834. Therefore it is submitted, that if the document of March, 1843, for Soscol, be considered as a grant, it could enure to the benefit of Vallejo for only one league—the difference between the utmost he could take by grant (eleven leagues) and the quantity he had already received (ten leagues.)

It can make no difference that the lands were attempted to be granted by different instruments. The policy of Mexico, it is obvious, was to forbid the monopoly of lands, to prevent men of influence from obtaining grants of unlimited quantities, and it would be absurd to suppose that, in limiting the granting power in favor of any individual, the law would permit the evasion of its great policy by the simple expedient of issuing separate deeds for several quantities, instead of one deed for the whole.

All these matters, it is submitted, render it impossible to confirm the claim. Their force is augmented by the reflection indulged by the court, in passing upon another grant hereinafter considered, claimed by members of the same family.

" The parties also (Vallejo's) were men of more than ordinary intelligence, and belong to one of the most influential Mexican families of the Territory, and doubtless well understood the regulations concerning grants of the public domain." (Teschmaker's case, 22d Howard, at p. 405.

Certainly we must suppose that claimant did so, as he was himself a "director of colonization."

Again : The views above suggested seem to be conclusive against this case, but considered in connexion with other circumstances now to be submitted, their force will be irresistible.

The evidence to be arrayed against the claim is documentary, taken either from matters introduced by claimant, or from the archives.

" These archives are public documents, which the court has a right to consult, even if not made formal proof in the case. (U. S. *vs.* Teschmaker, 22d Howard, at p. 405.

The attention of the court is invited to the appearance of this case, when it forms one of a group of the claims with which claimant is connected. All of them, save one, have been already before the court, and that one has been made formally a part of the record; so all are properly matters which the court will notice.

Among several other grants in which the claimant is interested, special attention is asked for two, viz :

1. Petaluma, for 15 leagues.
2. Yulupa, " 3 leagues.

And the examination should include—

3. Lup Yumi, for 16 leagues.

The claim for Petaluma has been confirmed to him for 15 leagues by the district court, and the appeal having been dismissed, it never reached this tribunal, but the expediente and grants are found in this record.

The grant for Julupa is said to have been made to one Miguel Alvarado; but the case was brought by General Vallejo, and has been before the court. (U. S. *vs.* Vallejo, 22d Howard, 416.)

The title to Lup Jumi is based upon a permit to occupy the land given by this claimant, as director of colonization of the northern frontier, to his brothers, Salvador and J. A. Vallejo, with a subsequent grant from Micheltorena. It has also been before the court. (U. S. *vs.* Teschmaker, 22d Howard, 392.)

In the Petaluma case, as has already been stated, General M. G. Vallejo sets up title under one grant by Governor Figueroa in 1834, supported by an approval of the territorial deputation of the same date; also two grants by Governor Micheltorena—the first, October 22d, 1843, issued in consequence of the loss of the Figueroa grant for 10 leagues; the second, (a sale,) June 22d, 1844, supported by certificates of the departmental assembly for the two several grants, of fitting dates.

September 12th, 1845, for the sobrante of 5 leagues.
September 26th, 1845, for the regrant of 10 leagues.

It is beyond doubt that Vallejo did receive a grant from Governor Figueroa, (although not for the extent he claimed,) and that it was confirmed by the territorial deputation; also, that he solicited and received from Micheltorena a confirmation of it, and a reissue of title for ten leagues, which was also confirmed by the departmental assembly.

The expediente for the Micheltorena grant is in the archives ; it is noted on Jimeno's index, and its confirmation is entered in the journal of the assembly.

But to this is superadded the sobrante grant, entirely lacking in proper evidence. Like the Soscol claim, this grant for five leagues purports to be for a moneyed consideration : $2,000 is the alleged price. It is this sobrante purchase which is to be compared with the others.

Although the Lup Jumi and Julupa claims were heedlessly confirmed by the district court, yet this tribunal remanded them for further examination, and they now slumber without hope of revival.

Upon examining together all of these alleged grants, there appear defects and irregularities so similarly occurring in each, so strikingly indicative of non-existence at the time of their dates, as to make the conclusion inevitable that they were all objects of subsequent manufacture.

First. All of these grants, to wit:
The sale of Soscol, June 19th, 1844;
The sale of the Petaluma sobrante, June 22d, 1844;
Grant of Lup Yumi, September 5th, 1844;
Grant of Yulupa, November 23d, 1844;
are attested by Francisco Arce as deputy, instead of by Jimeno, as secretary of state.

Whence the most singular coincidence? In regular course of business the grant should have been attested by Jimeno, and in point of fact, every other grant made in 1844, and attested at all, was attested by Jimeno, with the exception of one. That exception is in the instance of the grant to Jimeno himself, in which case the document was properly attested by Arce, provisional secretary, for, of course, Jimeno could not act in a matter in which he was himself personally interested.

It may be mentioned here as historical, that Governor Micheltorena assumed the reins of office on the 1st of January, 1843, at Los Angeles, with Manuel Jimeno as secretary of state, and Francisco Arce as deputy. Early in February, Jimeno left Los Angeles, and was replaced in his office by his deputy, Arce, who remained at Los Angeles with the governor until the latter removed to Monterey. During this absence of Jimeno from his office in Los Angeles, land grants were properly attested by Arce; but immediately on the arrival of Micheltorena at Monterey, in the Autumn of 1844, he was joined by Jimeno, who remained continuously in his office until the expulsion of Micheltorena.

The grants for 1844 are collated in the printed volume Limautour, exhibits from the Land Commission—Exhibit G—pp. 77 to 201.

It is also a singular omission, that although Arce purports to be the attesting officer to all these grants, he was never summoned to prove any of them.

Again: Another peculiarity of the set of grants under review, all purporting to be made to the Vallejo family, or produced by claimant as his property, is this: of not one of them is there any trace in the archives. No expediente; no petition, diseño, report, or concession of record; and no evidence of compliance with a single prerequisite of law. They are not entered in Jimeno's index, nor noted in the toma of their year. They are not in the list reported by Mr. Jones to the government.

By what strange fatality have all these matters been omitted in one peculiar class of cases?

It is true that upon every one of them there is a note, purporting to be made by Arce, which recites they have been noted in the proper book. But in the toma of 1844 (the year in which they are all dated) there is no entry of any of them. When Arce, therefore, is made to say that they were entered, either his name is forged or else the remark of the court in Teschmaker's case as to one of these grants must be extended to them all.

"The memorandum therefor at the foot of the grant by Arce, the secretary, 'Note has been made of this decree in the proper book,' is untrue." (22 Howard, p. 405.)

Again: Not one of these grants was ever before the departmental assembly, although some of them are alleged to have received its approval.

In the Lup Lumi grant there is no pretext of an approval; in each of the others there is. Documents are presented, purporting to be approvals, in the following cases:

Soscol, (the present case,) September 26, 1845.

Petaluma, (the Sobrante grant,) September 12, 1845.

Julupa, February 12, 1845.

Now, on reference to the original journals of the departmental assembly, it is found—

That on the 26th of September, 1845, the pretended date of the approval of the Soscol grant, although there was a meeting of the assembly, yet there is no mention whatever of the Soscol grant.

That on the 12th of September, 1845, the pretended date of approval of the Petaluma five-league grant, there was no meeting at all of the assembly.

That on the 28th of February, 1845, the date of the certificate of approval for Yulupa, there was no meeting of the assembly.

There was an approval on the 26th September, 1845, for the Petaluma 10-league grant, which is admitted to be genuine. The certificate produced by claimant dates the approval of the Sobrante grant on the 12th September, 1845. Would it not have been a strange order of business to have considered and approved the Sobrante grant before considering the original grant on which the Sobrante is based?

In some of these documents the signatures of the officers are so manifestly unlike their usual writing as to leave no doubt they are not genuine, and in every instance of the assailed grants the assertion of their approval has been disproved by the original journals.

This goes beyond the question of the effect of non-approval by the departmental assembly; it goes to the credibility of all the cases. What credence is to be given to any evidence going to confirm claims which are supported by such glaring fabrications? To us it seems that the baleful shadows of these facts casts over them all the darkness of falsehood.

A written copy of the journals of the departmental assembly is in the library of the Supreme Court or the office of the Attorney General.

Two of these grants—for Soscol, June 19, 1844, and for Petaluma Sobrante, June 22, 1844—purport to have been made for a moneyed consideration.

It is needless to comment upon the special danger of confirming claims based upon such allegations without archive testimony to support them. Of all grants these would be instances in which, if genuine, such evidence would be found most ample and accurate. It was upon like suggestions of purchase from Micheltorena, soon after his arrival, that the celebrated Limantour frauds were based; and in their support forged documents were introduced amongst the archives themselves and sustained by the oaths of witness after witness.

It is well to remark that in other grants, where money entered into the inducement, the matter had to pass through all the routine of legal examination, and all the requirements of Mexican law for colonization were strictly complied with. (See Limantour Land Commission Exhibits—Exhibit G—p 197; Grant of "Nicasio" to Don Pablo de la Guerra *et al.*)

Again: If, as in the Luco case, (23 Howard, p. 515,) we examine photographic copies of the documents, for the comparison of signatures, we may find a reason for the meagreness of the proof as to handwriting.

Documents from the archives, photographed by order of the goverment, afford ready means for this test. In the photographic exhibits of the Limantour case, at pages 82, 83, will be found the photograph of the *sale* of Soscol to claimant, dated June 19, 1844, and at pp. 85, 86, that of Petaluma Sobrante, of June 22, 1844. A comparison of the signatures of Micheltorena to these deeds with those of undoubted signatures, such as those at pp. 139, 141, *et seq.*, of the same volume, will disclose such marked differences as to render belief in the genuineness of the assailed documents impossible. It will also be observed that they are similar to the signature to the paper in the case of Rafael Garcia, (page 101, same volume,) which is further attested by a forged seal, and which has been rejected by this court. (22 Howard, p. 274.)

So in the Lup Yumi grant to the Vallejos, already commented on, (known in this court as the Teschmaker case, 22 Howard, 392,) an examination of the signature of Governor Micheltorena will at once detect its unlikeness to the genuine. This grant also has been photographed by the United States, and will be found in the volume prepared by Mr. Shunk, formerly an agent for the government in California land cases, page 1.

The same remark applies to the signature of Micheltorena to the grant of Yulupa to Miguel Alvarado, (before this court as Mariano G. Vallejo *vs.* United States, 22 Howard, 416,) now owned by present claimant. (See Photographic volume of Mr. Shunk, p. 11.)

It is also unfortunate that the approval of the assembly to the five-league Petaluma Sobrante sale, should not only bear a date (September 12, 1845) when the journals show that there was no meeting of the assembly, but should also have a signature of Governor Pio Pico totally unlike his ordinary writing. (See photograph annexed to this brief.) In the case of Luco, when all his signatures in the archives were collated and compared, this was pointed out by the district court as altogether different from the genuine writing of Pico.

So the signatures to the approval of Yulupa (Vallejo *vs.* United States, 22 Howard) are unlike all the genuine.

The Luco case (23 Howard, p. 515) may perhaps furnish a clue to the strange connexion of this claimant with so many documents of suspicious signature. In the cited cases he testified with great positiveness to the genuineness of Pio Pico's signatures and the authenticity of the documents then presented. This court discarded the testimony and branded the documents as palpable, glaring falsities.

Hence it may be inferred that the feebleness of claimant's judgment in matters of handwriting leaves him an easy subject of deception by means of similated signatures.

It is respectfully submitted that the claim cannot be confirmed. It is deficient in every badge of authenticity, and is opposed to every canon of evidence laid down by the court.

Upon claimant's own showing, it was made (as we contend, if it was made at all) without authority of law; it is unrecognised by the archives; its alleged approval by the assembly is contradicted by the journals of the assembly, and is shown to be false; its parol testimony is too worthless to have any effect upon the mind: its documents are not proved as the law requires, and are closely connected with other documents equally infirm and unreliable, and all disproving themselves by the strangeness of their signatures.

It may be observed that the defence of the case is of great importance to the United States, as the claim includes "Mare island," another title to which the United States has already bought, and there located its great navy-yard of the Pacific, at a cost already of much more than a million of dollars, and with an interest in maintaining the post beyond pecuniary consideration.

Respectfully submitted,

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